

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 743
PROPOSED COMMITTEE SUBSTITUTE S743-PCS45322-BC-10

Short Title: Transformational Investments in NC Health.

(Public)

Sponsors:

Referred to:

April 10, 2023

1 A BILL TO BE ENTITLED
2 AN ACT MAKING TRANSFORMATIONAL INVESTMENTS IN NORTH CAROLINA'S
3 HEALTH BY CLARIFYING THE AUTHORITY OF THE UNIVERSITY OF NORTH
4 CAROLINA HEALTH CARE SYSTEM (THE SYSTEM) TO CONDUCT OPERATIONS
5 IN THE BEST INTERESTS OF THE STATE FOR THE PURPOSE OF CREATING A
6 STATEWIDE HEALTH SYSTEM OF HIGH QUALITY; EXPANDING THE SYSTEM'S
7 OPERATING AUTHORITIES AND PERSONNEL FLEXIBILITIES; AND MAKING
8 NECESSARY CONFORMING CHANGES.

9 The General Assembly of North Carolina enacts:

10
11 **PART I. CLARIFICATION OF THE AUTHORITY OF THE UNIVERSITY OF NORTH**
12 **CAROLINA HEALTH CARE SYSTEM WITH RESPECT TO OPERATIONS AND**
13 **PERSONNEL FLEXIBILITIES**

14 **SECTION 1.1.(a)** G.S. 116-37 and G.S. 116-37.2 are repealed.

15 **SECTION 1.1.(b)** Chapter 116 of the General Statutes is amended by adding a new
16 Article to read:

17 "Article 37.

18 "University of North Carolina Health Care System.

19 "Part 1. Health Care System.

20 **"§ 116-350. Definitions.**

21 The following definitions shall apply in this Article:

22 (1) Board or Board of Directors. – The Board of Directors of the University of
23 North Carolina Health Care System.

24 (2) Chief Executive Officer. – The executive and administrative head of the
25 University of North Carolina Health Care System.

26 (3) Component unit. – Any of the following:

27 a. The University of North Carolina Hospitals at Chapel Hill.

28 b. A clinical patient care program established or maintained by the
29 School of Medicine of the University of North Carolina at Chapel Hill.

30 (4) System affiliate. – Any corporation, partnership, limited liability company,
31 joint venture, association business trust or similar entity organized under the
32 laws of the United States of America or any state thereof, whether for profit
33 or nonprofit, if a majority of the members of the governing body are one of
34 the following:

35 a. The same as the members of the Board of the System.



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1 b. Subject, directly or indirectly, to election or appointment by the Board
2 of the System.

3 (5) The University of North Carolina Health Care System or System. – The
4 University of North Carolina Hospitals at Chapel Hill and the clinical patient
5 care programs established or maintained by the School of Medicine of the
6 University of North Carolina at Chapel Hill.

7 **"§ 116-350.5. University of North Carolina Health Care System.**

8 (a) Establishment of System. – Effective November 1, 1998, the University of North
9 Carolina Health Care System is established. The System is a State agency and political
10 subdivision governed and administered as an affiliated enterprise of The University of North
11 Carolina in accordance with the provisions of this Article. The System shall provide patient care;
12 facilitate the education of physicians and other health care providers in partnership with the
13 University of North Carolina at Chapel Hill School of Medicine and other health sciences schools
14 affiliated with the constituent institutions of The University of North Carolina System; conduct
15 research collaboratively with the health sciences schools of the University of North Carolina at
16 Chapel Hill and other institutions; facilitate clinical collaboration with and financial
17 sustainability of the University of North Carolina at Chapel Hill School of Medicine; render other
18 services designed to promote the health and well-being of the citizens of North Carolina; and
19 drive innovation and transformation in health care services delivery.

20 (b) Transfer of Rights. – As of November 1, 1998, all of the rights, privileges, liabilities,
21 and obligations of the Board of the University of North Carolina Hospitals at Chapel Hill, not
22 inconsistent with the provisions of this Article, shall be transferred to and assumed by the Board
23 of the System.

24 (c) Governance. – The Board of the System shall govern and administer The University
25 of North Carolina Hospitals at Chapel Hill, the clinical patient care programs established or
26 maintained by the School of Medicine of the University of North Carolina at Chapel Hill, and
27 such other entities and functions as (i) the General Assembly may assign to the System or (ii) the
28 Board may decide, within the limitations of its statutory powers and duties, to establish,
29 administer, or acquire for the purpose of rendering services designed to promote the health and
30 well-being of the citizens of North Carolina.

31 (d) With respect to G.S. 116-350.30, 116-350.35, 116-350.40, 116-350.45, and
32 116-350-65, the Board may adopt policies that make the authorities and responsibilities
33 established by one or more of said sections applicable to the University of North Carolina
34 Hospitals at Chapel Hill, to the clinical patient care programs of the School of Medicine of the
35 University of North Carolina at Chapel Hill, to both, or to other persons or entities affiliated with
36 or under the control of the University of North Carolina Health Care System.

37 **"§ 116-350.10. Board of Directors.**

38 (a) The Board shall be composed of 24 members as follows:

39 (1) Four ex officio members as follows:

40 a. The President of The University of North Carolina or the President's
41 designee.

42 b. The Chief Executive Officer of the University of North Carolina
43 Health Care System.

44 c. The Chancellor of the University of North Carolina at Chapel Hill.

45 d. The President of the University of North Carolina Hospitals.

46 (2) Eight members at large shall be appointed by the General Assembly as
47 follows:

48 a. One member shall be appointed by the General Assembly upon
49 recommendation of the Speaker of the House of Representatives
50 annually.

1 b. One member shall be appointed by the General Assembly upon
2 recommendation of the President Pro Tempore of the Senate annually.

3 (3) Twelve members at large shall be appointed by the Board of Governors after
4 consultation with the President of The University of North Carolina. The
5 Board of Governors shall appoint three members annually.

6 (4) All at-large positions shall serve four-year terms beginning November 1 of the
7 year of appointment. At-large positions shall be filled by the appointment of
8 persons from the business and professional public at large who have special
9 competence in business management, hospital administration, health care
10 delivery, or medical practice or who otherwise have demonstrated dedication
11 to the improvement of health care in North Carolina, and who are neither
12 members of the Board of Governors, members of the board of trustees of a
13 constituent institution of The University of North Carolina, nor officers or
14 employees of the State. No member may be appointed to more than two full
15 four-year terms in succession. Any vacancy in an unexpired term shall be
16 filled by the appointing authority for the remainder of the unexpired term.
17 Vacancies for members appointed by the General Assembly shall be filled as
18 provided in G.S. 120-122.

19 (b) The Board, with each ex officio and at-large member having a vote, shall elect a chair
20 only from among the at-large members for a term of two years. Notwithstanding the foregoing
21 limitation, the Chancellor of the University of North Carolina at Chapel Hill may serve as chair.
22 No person shall be eligible to serve as chair for more than three terms in succession.

23 (c) The Board shall meet at least every 60 days and may hold special meetings at any
24 time and place within the State at the call of the chair. Board members, other than ex officio
25 members, shall receive the same per diem and reimbursement for travel expenses as members of
26 the State boards and commissions generally.

27 (d) The Board's action on matters within its jurisdiction is final, except that appeals may
28 be made, in writing, to the Board of Governors with a copy of the appeal to the Chancellor of the
29 University of North Carolina at Chapel Hill. The Board shall keep the Board of Governors and
30 the board of trustees of the University of North Carolina at Chapel Hill fully informed about
31 health care policy and recommend changes necessary to maintain adequate health care delivery,
32 education, and research for improvement of the health of the citizens of North Carolina.

33 **"§ 116-350.15. Powers and duties of the Board of Directors.**

34 (a) Contracting Authority. – The Board may authorize any component unit of the System
35 to contract in its individual capacity, subject to such policies and procedures as the Board may
36 direct.

37 (b) Agreements with Constituent Institutions. – The Board may enter into formal
38 agreements with constituent institutions of The University of North Carolina with respect to the
39 provision of clinical experience for students and for the provision of maintenance and supporting
40 services.

41 (c) General Powers and Duties. – The Board is authorized to exercise such authority and
42 responsibility and adopt such policies, rules, and regulations as it deems necessary or convenient,
43 not inconsistent with the provisions of this Article, to carry out the patient care, education,
44 research, and public service mission of the System, including, but not limited to, authority to do
45 the following:

46 (1) Construct, plan, create, equip, operate, and maintain health care facilities and
47 ancillary enterprises.

48 (2) Collect, manage, and control all receipts generated through its clinical
49 operations and other activities.

50 (3) Issue bonds and notes as provided in G.S. 116-350.55.

- 1 (4) Acquire and dispose of real or personal property, including existing public or
2 private hospital and health care facilities, by purchase, grant, gift, devise,
3 lease, or otherwise.
- 4 (5) Enter into partnerships, affiliations, and other combinations or arrangements
5 with other hospitals or health care entities, as it deems appropriate, including
6 arrangements for management services, to achieve its missions of patient care,
7 education, research, and public service.
- 8 (6) Contract with or enter into any arrangement, including through interlocal
9 cooperation agreements under Part 1 of Article 20 of Chapter 160A of the
10 General Statutes, with other public hospitals of this or other states, federal or
11 public agencies, or with any person, private organization, or nonprofit
12 corporation for the provision of health care.
- 13 (7) Insure property or operations of the System against risks as the Board may
14 deem advisable.
- 15 (8) Except as provided in G.S. 116-350.40, to invest any funds held in reserves or
16 sinking funds, or any funds generated from operations, in property or
17 securities in which trustees, executors, or others acting in a fiduciary capacity
18 may legally invest funds under their control.
- 19 (9) Exercise the following powers conferred upon municipal hospitals and
20 hospital authorities under Article 2 of Chapter 131E of the General Statutes:
- 21 a. The power to enter into agreements with other hospital entities subject
22 to Article 2 of Chapter 131E of the General Statutes to jointly exercise
23 the powers, privileges, and authorities granted by Article 2 of Chapter
24 131E of the General Statutes.
- 25 b. The power to lease any hospital facility, or any part of a hospital
26 facility, to a nonprofit corporation, provided that the terms and
27 conditions of such lease are consistent with the public purposes
28 described in G.S. 131E-12.
- 29 c. The power to acquire an ownership interest, in whole or in part, in a
30 nonprofit or for-profit managed care company, as provided in
31 G.S. 131E-7.1.
- 32 d. All powers set forth in G.S. 131E-23 that are not otherwise addressed
33 by this Part.
- 34 (10) Exercise any or all powers conferred upon the Board, either generally or with
35 respect to any specific health care facility or other operations, through or by
36 designated agents, including private corporations, nonprofit corporations, or
37 limited liability companies formed under the laws of the State.
- 38 (11) Have the powers of a body corporate and politic, including the power to sue
39 and be sued, to make contracts, and to adopt and use a common seal and to
40 alter the same as may be deemed expedient.

41 (d) Limitations. – Notwithstanding the powers and duties provided in this section, the
42 Board shall not relinquish to another entity more than fifty percent (50%) of control of either the
43 UNC Hospitals or the System.

44 **"§ 116-350.20. Reports due from the Board of Directors.**

45 The Chief Executive Officer and the President of The University of North Carolina jointly
46 shall report by December 31 of each year on the operations and financial affairs of the System to
47 the Joint Legislative Commission on Governmental Operations and the Board of Governors of
48 The University of North Carolina. The report shall include actions taken by the Board under the
49 authority granted by G.S. 116-350.35.

50 **"§ 116-350.25. System Officers and their staff.**

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

19 (b) President of UNC Hospitals. – The executive and administrative head of the
20 University of North Carolina Hospitals at Chapel Hill shall have the title of "President of the
21 University of North Carolina Hospitals at Chapel Hill." The Board of Directors shall elect, on
22 nomination of the Chief Executive Officer, the President of the University of North Carolina
23 Hospitals at Chapel Hill.

24 (c) Administrative and Professional Staff. – The Board of Directors shall elect, on
25 nomination of the Chief Executive Officer, such additional administrative and professional staff
26 employees of the University of North Carolina Health Care System as may be deemed necessary
27 to assist in fulfilling the duties of the office of the Chief Executive Officer, all of whom shall
28 serve at the pleasure of the Chief Executive Officer.

29 **"§ 116-350.30. Personnel.**

30 (a) Employment Authority. – The System may employ a workforce to conduct its
31 operations. Employees who are employed directly by the System, and not by a System affiliate,
32 are State employees whose terms and conditions of employment, including benefit plans and
33 programs, are determined by the Board. Only Articles 5, 6, 7, and 14 of Chapter 126 of the
34 General Statutes, the State Human Resources Act, apply to these State employees. The Board of
35 the System may authorize the System to employ the faculty and staff of the University of North
36 Carolina School of Medicine as well as other health affairs schools and components of the
37 University of North Carolina at Chapel Hill subject to the provisions of this subsection, provided
38 that any employees who are faculty members shall remain subject to the faculty policies of the
39 University of North Carolina at Chapel Hill, as established or adopted pursuant to delegation
40 from the Board of Governors of The University of North Carolina. A State employee employed
41 by the System immediately prior to November 1, 2023, has the right to (i) continued State
42 employment if the employee remains in the employee's current role or position, unless terminated
43 in accordance with the terms of employment that existed immediately prior to November 1, 2023,
44 subject to all relevant provisions of State and federal law and (ii) continued participation in the
45 State Teachers' and State Employees' Retirement System if the employee was enrolled in the
46 Retirement System immediately prior to November 1, 2023, and maintains State employee status.

47 (b) Certain Career State Employees. – Notwithstanding subsection (a) of this section, a
48 State employee who achieved career State employee status by October 31, 1998, shall remain
49 subject to the rules regarding discipline or discharge that were effective on October 31, 1998,
50 and shall not be subject to the rules regarding discipline or discharge adopted after that date.

51 **"§ 116-350.35. Finances.**

1 (a) System Budgeting. – The System, the UNC Hospitals, and designated component
2 parts of The University of North Carolina shall not be subject to the provisions of the State
3 Budget Act, except for General Fund appropriations, or otherwise subject to the authority,
4 oversight, or control of the Office of the State Controller. The System, the UNC Hospitals, and
5 designated component parts of The University of North Carolina shall be subject to the authority
6 and oversight of the Office of the State Auditor. The Chief Executive Officer, subject to the
7 Board, shall be responsible for all aspects of budget preparation, budget execution, and
8 expenditure reporting for the System. Separate auditable accounts under the control of the Board
9 shall be maintained for the UNC Hospitals and the clinical patient care programs of the School
10 of Medicine of the University of North Carolina at Chapel Hill. Except for General Fund
11 appropriations, all receipts of the UNC Hospitals may be invested pursuant to G.S. 116-265.40.
12 General Fund appropriations for support of the UNC Hospitals shall be budgeted in a General
13 Fund code under a single purpose, "Contribution to University of North Carolina Hospitals at
14 Chapel Hill Operations" and be transferable to a special fund operating code as receipts. All
15 revenues generated from operations, appropriations, or funds otherwise under the control of the
16 Board shall exclusively be used in furtherance of the missions and goals of the System as
17 determined or approved by the Board.

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

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

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

39 **§ 116-350.40. Regulation of UNC Hospitals Funds.**

40 (a) Definition of Funds. – As used in this section, "funds" means:

- 41 (1) Moneys, or the proceeds of other forms of property, received by the UNC
42 Hospitals as gifts or devises.
- 43 (2) Moneys received by the UNC Hospitals pursuant to grants from, or contracts
44 with, the United States government or any agency or instrumentality thereof.
- 45 (3) Moneys received by the UNC Hospitals pursuant to grants from, or contracts
46 with, any State agencies, any political subdivisions of the State, any other
47 states or nations or political subdivisions thereof, or any private entities
48 whereby the UNC Hospitals undertakes, subject to terms and conditions
49 specified by the entity providing the moneys, to conduct research, training, or
50 public service programs.

- 1 (4) Moneys received from or for the operation by the UNC Hospitals of any of its
2 self-supporting auxiliary enterprises, including the Liability Insurance Trust
3 Fund.
- 4 (5) Moneys received for services UNC Hospitals and the patient care programs
5 established or maintained by the School of Medicine of the University of
6 North Carolina at Chapel Hill render in its hospital, clinics, and other
7 operations.
- 8 (6) Moneys received by the UNC Hospitals in respect to borrowings for capital
9 equipment or construction projects to further services it renders in either or
10 both of its hospital or clinical operations.
- 11 (7) The net proceeds from the disposition effected pursuant to Article 7 of Chapter
12 146 of the General Statutes of any interest in real property owned by or under
13 the supervision and control of the UNC Hospitals if the interest in real
14 property had first been acquired by gift or devise or through expenditure of
15 moneys defined in this section, except the net proceeds from the disposition
16 of an interest in real property first acquired by the UNC Hospitals through
17 expenditure of moneys received as a grant from a State agency or General
18 Fund appropriations.

19 (b) Fund Management. – The Board of the System is responsible for the custody and
20 management of the funds of the UNC Hospitals. The Board shall adopt uniform policies and
21 procedures applicable to the deposit, investment, and administration of these funds, which shall
22 assure that the receipt and expenditure of such funds is properly authorized and that the funds are
23 appropriately accounted for. The Board may delegate authority, through the Chief Executive
24 Officer, to the President of the UNC Hospitals, when such delegation is necessary or prudent to
25 enable the UNC Hospitals to function in a proper and expeditious manner.

26 (c) Fund Expenditure. – Funds under this section and investment earnings thereon are
27 available for expenditure by the UNC Hospitals and are hereby appropriated by the General
28 Assembly.

29 (d) Fund Oversight. – Funds under this section are subject to the oversight of the State
30 Auditor pursuant to Article 5A of Chapter 147 of the General Statutes are not subject to the
31 provisions of the State Budget Act, except for operating and capital funds appropriated from the
32 General Fund.

33 (e) Fund Reporting. – The UNC Hospitals shall submit such reports or other information
34 concerning its fund accounts under this section as may be required by the Board.

35 (f) Funds Supplemental. – Funds under this section, or the investment income therefrom,
36 shall not take the place of State appropriations or any part thereof, but any portion of these funds
37 available for general institutional purposes shall be used to supplement State appropriations to
38 the end that the UNC Hospitals may improve and increase their functions, may enlarge their areas
39 of service, and may become more useful to a greater number of people.

40 (g) Fund Investment. – The Board may deposit or invest the funds under this section in
41 interest bearing accounts and other investments in the exercise of its sound discretion, without
42 regard to any statute or rule of law relating to the investment of funds by fiduciaries.

43 **"§ 116-350.45. Purchases.**

44 Notwithstanding the provisions of Articles 3, 3A, and 3C of Chapter 143 of the General
45 Statutes and G.S. 143-341(8)(i) of the General Statutes, the Board shall establish policies and
46 regulations governing the purchasing requirements of the System. These policies and regulations
47 shall provide for requests for proposals, competitive bidding or purchasing by means other than
48 competitive bidding, contract negotiations, and contract awards for purchasing supplies,
49 materials, equipment, and services which are necessary and appropriate to fulfill the clinical,
50 educational, research, and community service missions of the System.

1 The Board of Directors shall submit all initial policies and regulations adopted pursuant to
2 this section to the Division of Purchase and Contract for review upon adoption by the Board. Any
3 subsequent changes to these policies and regulations adopted by the Board shall be submitted to
4 the Division of Purchase and Contract for review. Any comments by the Division of Purchase
5 and Contract shall be submitted to the Chief Executive Officer and to the President of The
6 University of North Carolina.

7 **"§ 116-350.50. Real property.**

8 (a) Acquisition and Disposition. – The Board shall establish policies for acquiring and
9 disposing of any interest in real property by the System and the UNC Hospitals. These policies
10 shall specify procedures for evaluating, negotiating, and approving the acquisition or disposition
11 of an interest in real property by purchase, gift, lease, or rental, but not by condemnation or
12 exercise of eminent domain. Acquisitions and dispositions of interests in real property pursuant
13 to this section shall not be subject to statutes applicable to the acquisition or disposition of interest
14 in real property by or on behalf of State agencies, including, without limitation, the provisions of
15 Article 36 of Chapter 143 of the General Statutes or Chapter 146 of the General Statutes.

16 (b) Design and Construction. – The Board may, subject to rules and regulations generally
17 applicable to hospital facilities in the State, adopt policies and procedures that exclusively govern
18 the design, construction, and renovation of buildings, infrastructure, utilities, and other property
19 developments of the System and the UNC Hospitals, including all aspects of vendor selections,
20 contracting, negotiation, and approvals. Design and construction for the System and the UNC
21 Hospitals shall be subject to the requirements of G.S. 44A-26 and G.S. 133-1.1 but shall not
22 otherwise be subject to the provisions of statutes applicable to design and construction projects
23 by or on behalf of State agencies.

24 (c) Plan Review and Code Enforcement of Certain Construction Projects. –
25 Notwithstanding any other provision of law to the contrary, a local building code inspection
26 department has general authority over plan review and administration, and enforcement, of all
27 sections of the North Carolina State Building Code for construction or renovation projects
28 undertaken by the System or its component units that are on or within privately owned real
29 property leased by the System, or its component units, within its jurisdiction. Nothing in this
30 subsection shall be construed to abrogate the authority of the Department of Labor under
31 G.S. 143-139(c) and (d).

32 **"§ 116-350.55. Bonds and notes.**

33 (a) Bonds and Notes. – In addition to the provisions of Article 3 of Chapter 116D of the
34 General Statutes, the System shall be authorized to issue bonds and notes on behalf of itself or
35 any component units or System affiliate in accordance with the provisions of Article 3 of Chapter
36 116D of the General Statutes, in the same manner and for the same purposes as the Board of
37 Governors of The University of North Carolina may issue bonds and notes as provided for
38 therein. In doing so, the System shall have the same powers conferred upon the Board of
39 Governors by such Article and, for purposes of this section, references in such Article to the
40 Board of Governors shall mean and be deemed to include the System.

41 (b) Notwithstanding subsection (a) of this section, in connection with the issuance of
42 bonds or notes of the System in accordance with this section and Article 3 of Chapter 116D of
43 the General Statutes, the following provisions shall apply:

- 44 (1) Institutions within the meaning of G.S. 116D-22 shall include the System and
45 any component unit or System affiliate.
- 46 (2) The approval of the Director of the Budget, as provided in G.S. 116D-26,
47 116D-27, 116D-29, and 116D-30, shall not apply to bonds or notes issued by
48 the System pursuant to this section and Article 3 of Chapter 116D of the
49 General Statutes.
- 50 (3) Notwithstanding G.S. 116D-26(b), except as otherwise provided in Article 3
51 of Chapter 116D of the General Statutes, special obligation bond projects may

1 be undertaken, special obligation bonds may be issued, and other powers
2 vested in the Board under this section may be exercised by the Board without
3 obtaining the consent of any department, division, commission, board, bureau,
4 or agency of the State and without any other proceedings or the happening of
5 any other conditions or things other than those proceedings, conditions, or
6 things which are specifically required by this section and Article 3 of Chapter
7 116D of the General Statutes.

- 8 (4) Nothing herein shall limit or restrict the right of the System to obtain a loan
9 from a financial institution, provided that the System may not pledge real
10 property owned by the State of North Carolina as collateral.

11 **"§ 116-350.60. Nonprofit merger authority.**

12 The University of North Carolina Health Care System and any domestic nonprofit
13 corporation may merge in the manner provided in G.S. 55A-11-09, except that the merger need
14 not comply with G.S. 55A-11-02 as required by G.S. 55A-11-09(b)(3). For the purposes of this
15 section, the University of North Carolina Health Care System is deemed an unincorporated
16 "business entity" as defined in G.S. 55A-11-09(a) and the University of North Carolina Health
17 Care System or the University of North Carolina Hospitals is the surviving business entity of any
18 merger effected pursuant to this section. For any plan of merger pursuant to this section, along
19 with the applicable items set forth in the articles of merger under G.S. 55A-11-09(d), the
20 University of North Carolina Health Care System shall set forth reference to this section.
21 G.S. 55A-11-09(e1) does not apply to a merger under this section.

22 **"§ 116-350.65. Public records.**

23 The following records of the System are not public records under Chapter 132 of the General
24 Statutes:

- 25 (1) Records related to patient care and patient services, including, but not limited
26 to, patient records, vendor contracts, quality initiatives, quality measures, and
27 reports related to quality requirements; provided, however, that any contracts
28 with other State agencies or documents publicly reported to government
29 regulatory or oversight bodies shall be considered public records.
30 (2) Records related to strategic planning or initiatives, including potential
31 affiliations and new services or businesses.
32 (3) Consultations with the Joint Legislative Commission on Governmental
33 Operations as provided in G.S. 116-350.15(d)(2).

34 **"§ 116-350.70. State action.**

35 Subject to the provisions and limitations of Parts 1 and 2 of this Article, the Board may enter
36 into cooperative agreements with any other entity for the provision of health care, including the
37 acquisition, allocation, sharing, or joint operation of hospitals or any other health care facilities
38 or health care provider, without regard to their effect on market competition. When partnering
39 with community hospitals and other health systems in various regions of the State, the System is
40 acting according to State policy by ensuring that health care is made available to all parts of North
41 Carolina; its activities constitute "State action" for purposes of antitrust law. The General
42 Assembly intends that these agreements are immune from the application of federal and State
43 antitrust law.

44 "Part 2. Liability Insurance or Self-Insurance.

45 **"§ 116-350.100. Authorization to secure insurance or provide self-insurance.**

46 The Board is authorized through the purchase of contracts of insurance or the creation of
47 self-insurance trusts, or through combination of such insurance and self-insurance, to provide the
48 System, UNC Hospitals, System affiliates, and individual health care practitioners with coverage
49 against claims of personal or entity tort liability based on conduct within the course and scope of
50 health care functions undertaken by such entities or individuals as employees, agents, or officers
51 of (i) the System, (ii) the University of North Carolina Hospitals at Chapel Hill, or (iii) any health

1 care institution, agency, or entity which has an affiliation agreement with the System or with the
2 University of North Carolina Hospitals at Chapel Hill. The types of health care practitioners to
3 which the provisions of this Part may apply include, but are not limited to, medical doctors,
4 dentists, nurses, residents, interns, medical technologists, nurses' aides, and orderlies. Subject to
5 all requirements and limitations of this Article, the coverage to be provided, through insurance
6 or self-insurance or combination thereof, may include provision for the payment of expenses of
7 litigation, the payment of civil judgments in courts of competent jurisdiction, and the payment of
8 settlement amounts, in actions, suits, or claims to which this Part applies.

9 **"§ 116-350.105. Establishment and administration of self-insurance trust funds; rules and**
10 **regulations; defense of actions against covered persons; application of**
11 **G.S. 143-300.6.**

12 (a) In the event the Board elects to act as self-insurer of a program of liability insurance,
13 it may establish one or more insurance trust accounts to be used only for the purposes authorized
14 by this Article; provided, however, said program of liability insurance shall not be subject to
15 regulation by the Commissioner of Insurance. The Board is authorized to receive and accept any
16 gift, donation, appropriation, or transfer of funds made for the purposes of this section and to
17 deposit such funds in the insurance trust accounts. All expenses incurred in collecting, receiving,
18 and maintaining such funds and in otherwise administering the self-insured program of liability
19 insurance shall be paid from such insurance trust accounts.

20 (b) Subject to all requirements and limitations of this Article, the Board is authorized to
21 adopt rules and regulations for the establishment and administration of the self-insured program
22 of liability insurance, including, but not limited to, rules and regulations concerning the eligibility
23 for and terms and conditions of participation in the program, the assessment of charges against
24 participants, the management of the insurance trust accounts, and the negotiation, settlement,
25 litigation, and payment of claims.

26 (c) The Board is authorized to create a UNC Health Liability Insurance Trust Fund
27 Council composed of not more than 13 members; one member each shall be appointed by the
28 State Attorney General, the State Insurance Commissioner, the Director of the Office of State
29 Budget and Management, and the State Treasurer; the remaining members shall be appointed by
30 the Board. Subject to all requirements and limitations of this Article and to any rules and
31 regulations adopted by the Board under the terms of subsection (b) of this section, the Board may
32 delegate to the UNC Health Liability Insurance Trust Fund Council responsibility and authority
33 for the administration of the self-insured liability insurance program and of the insurance trust
34 accounts established pursuant to such program.

35 (d) Defense of all suits or actions against an individual health care practitioner who is
36 covered by a self-insured program of liability insurance established by the Board under the
37 provisions of this Article may be provided by the Attorney General in accordance with the
38 provisions of G.S. 143-300.3 of Article 31A of Chapter 143; provided, that in the event it should
39 be determined pursuant to G.S. 143-300.4 that defense of such a claim should not be provided
40 by the State, or if it should be determined pursuant to G.S. 143-300.5 and G.S. 147-17 that
41 counsel other than the Attorney General should be employed or, if the individual health care
42 practitioner is not an employee of the State as defined in G.S. 143-300.2, then private legal
43 counsel may be employed by the UNC Health Liability Insurance Trust Fund Council and paid
44 for from funds in the insurance trust accounts.

45 (e) For purposes of the requirements of G.S. 143-300.6, the coverage provided State
46 employees by any self-insured program of liability insurance established by the Board pursuant
47 to the provisions of this Article shall be deemed to be commercial liability insurance coverage
48 within the meaning of G.S. 143-300.6(c).

49 (f) By rules or regulations adopted by the Board in accordance with subsection (b) of this
50 section, the Board may provide that funds maintained in insurance trust accounts under such a
51 self-insured program of liability insurance may be used to pay any expenses, including damages

1 ordered to be paid, which may be incurred by the System or the University of North Carolina
2 Hospitals at Chapel Hill with respect to any tort claim, based on alleged negligent acts in the
3 provision of health care services, which may be prosecuted under the provisions of Article 31 of
4 Chapter 143 of the General Statutes.

5 **"§ 116-350.110. Funding of self-insurance program.**

6 (a) If the Board elects to establish a self-insurance trust fund, the initial contribution to
7 the fund shall be determined by an independent actuary but shall be no less than three hundred
8 thousand dollars (\$300,000). Annual contributions to said fund shall be made in an amount to be
9 determined each year by the UNC Health Liability Insurance Trust Fund Council upon the advice
10 of an independent actuary and shall include amounts necessary to pay all costs of administration
11 of the self-insurance program and claims adjustment, including litigation in addition to amounts
12 necessary to pay claims. Contributions shall be no less than one hundred fifty percent (150%) of
13 the amounts actually paid each year on medical malpractice claims until such time as the UNC
14 Health Liability Insurance Trust Fund Council, with the advice of an independent actuary and
15 the approval of the Board, determines that an annual contribution in a lesser amount will not
16 impair the adequacy of the fund to satisfy existing and potential health care malpractice claims
17 for a period of one year.

18 (b) Claims certified to be paid from the fund shall be paid in the order of award or
19 settlement. In the event that the fund created hereunder shall at any time have insufficient funds
20 to assure that both existing and future claims will be paid, the Board is hereby authorized to
21 borrow necessary amounts up to thirty million dollars (\$30,000,000) per established
22 self-insurance trust fund account to replenish the fund. The Board shall maintain funds in each
23 self-insurance trust at no less than one hundred thousand dollars (\$100,000) at all times.

24 (c) Funds borrowed by the Board to replenish the trust fund account may be secured by
25 pledging noncapital assets of the members. Members shall mean those entities, agencies,
26 departments, or divisions of the System which directly contribute funds to the self-insurance
27 trust. In no event shall individual health care providers be deemed members for the purposes of
28 this section.

29 (d) Obligations issued under the provisions of this Part shall not be deemed to constitute
30 a debt, liability, or obligation of the State or of any political subdivision thereof or a pledge of
31 the faith and credit of the State or of any such political subdivision but shall be payable solely
32 from the revenues or assets of the members. Each obligation issued under this Part shall contain
33 on the face thereof a statement to the effect that the System shall not be obligated to pay the same
34 nor the interest thereon except from the revenues or assets pledged therefor and that neither the
35 faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged
36 to the payment of the principal of or the interest on such obligation.

37 **"§ 116-350.115. Termination of fund.**

38 Any fund created hereunder may be terminated by the Board upon their determination that
39 other satisfactory and adequate arrangements have been made to assure that both existing and
40 future health care malpractice claims or judgments against the participants in the self-insurance
41 program will be paid and satisfied. Upon the termination of any fund pursuant to this section, the
42 full amount remaining in such fund upon termination less any outstanding indebtedness shall
43 promptly be repaid to the System and allocated among the participating entities according to their
44 respective contributions as determined by the Board.

45 **"§ 116-350.120. Sovereign immunity.**

46 Nothing in this Article shall be deemed to waive the sovereign immunity of the State.

47 **"§ 116-350.125. Confidentiality of records.**

48 Records pertaining to the liability insurance program, including all information,
49 correspondence, investigations, or interviews concerning or pertaining to claims or potential
50 claims against participants in the self-insurance program or to the program or applications for
51 participation in the program shall not be considered public records under Chapter 132 of the

1 General Statutes and shall not be subject to discovery under the Rules of Civil Procedure, Chapter
 2 1A of the General Statutes.

3 **"§ 116-350.130. Further action.**

4 The Board is hereby authorized to take all action necessary to effectuate the purposes and
 5 provisions of this Part.

6 **"§ 116-350.135. Appropriation.**

7 The funds described by this Part are appropriated and shall be used only as provided by this
 8 Part."

10 **PART II. CONFORMING CHANGES**

11 **SECTION 2.1.** G.S. 66-58 reads as rewritten:

12 **"§ 66-58. Sale of merchandise or services by governmental units.**

13 (a) Except as ~~may be~~ provided in this section, it ~~shall be~~ is unlawful for any unit,
 14 ~~department~~ department, or agency of the State government, or any division or subdivision of the
 15 unit, ~~department~~ department, or agency, or any individual employee or employees of the unit,
 16 ~~department~~ department, or agency in his, ~~or~~ her, or their capacity as employee or employees
 17 ~~thereof~~, thereof to engage directly or indirectly in the sale of goods, ~~wares~~ wares, or merchandise
 18 in competition with citizens of the State, or to engage in the operation of restaurants, cafeterias
 19 or other eating places in any building owned by or leased in the name of the State, or to maintain
 20 service establishments for the rendering of services to the public ordinarily and customarily
 21 rendered by private enterprises, or to provide transportation services, or to contract with any
 22 person, ~~firm~~ firm, or corporation for the operation or rendering of the businesses or services on
 23 behalf of the unit, ~~department~~ department, or agency, or to purchase for or sell to any person,
 24 ~~firm~~ firm, or corporation any article of merchandise in competition with private enterprise. The
 25 leasing or subleasing of space in any building owned, ~~leased~~ leased, or operated by any unit,
 26 ~~department or agency or division or subdivision thereof~~ department, agency, division, or
 27 subdivision of the State for the purpose of operating or rendering of any of the businesses or
 28 services ~~herein~~ referred to in this section is ~~hereby~~ prohibited.

29 (b) ~~The provisions of subsection~~ Subsection (a) of this section ~~shall~~ does not apply ~~to~~
 30 any of the following:

31 ...

32 (8) The University of North Carolina with regard ~~to~~ to all of the following:

33 ...

34 e. The hospital and Medical School of the University of North Carolina.

35 e1. The University of North Carolina Health Care System.

36"

37 **SECTION 2.2.** G.S. 116-30.3A reads as rewritten:

38 **"§ 116-30.3A. Availability of excess receipts.**

39 Notwithstanding the provisions of Chapter 143C of the General Statutes, receipts within The
 40 University of North Carolina realized in excess of budgeted levels shall be available, up to a
 41 maximum of ten percent (10%) above budgeted levels, for each Budget Code, in addition to
 42 appropriations to support the operations generating the receipts as approved by the Director of
 43 the Budget. ~~Notwithstanding the provisions of Chapter 143C of the General Statutes, receipts~~
 44 ~~within The University of North Carolina Health Care System realized in excess of budgeted~~
 45 ~~levels shall be available above budgeted levels, for each Budget Code, in addition to~~
 46 ~~appropriations to support the operations generating the receipts as approved by the Director of~~
 47 ~~the Budget."~~

48 **SECTION 2.3.** G.S. 116-187 reads as rewritten:

49 **"§ 116-187. Purpose of Article.**

50 The purpose of this Article is to authorize the Board of Governors of the University of North
 51 Carolina to issue revenue bonds, payable from rentals, charges, fees (including student fees) and

1 other revenues but with no pledge of taxes or the faith and credit of the State or any agency or
2 political subdivision thereof, to pay the cost, in whole or in part, of buildings and other facilities
3 for the housing, health, welfare, recreation and convenience of students enrolled at the institutions
4 hereinafter designated, housing of faculty, adult or continuing education programs and for
5 revenue-producing parking decks or structures, and for University of North Carolina Hospitals
6 at Chapel Hill structures."

7 **SECTION 2.4.** G.S. 116-189(4) reads as rewritten:

8 "(4) The word "institution" shall mean each of the institutions enumerated in
9 G.S. 116-2, ~~the University of North Carolina Health Care System, G.S. 116-2~~
10 and The University of North Carolina System Office."

11 **SECTION 2.5.** G.S. 116-219 reads as rewritten:

12 "§ 116-219. **Authorization to secure insurance or provide self-insurance.**

13 The Board of Governors of the University of North Carolina (hereinafter referred to as "the
14 Board") is authorized through the purchase of contracts of insurance or the creation of
15 self-insurance trusts, or through combination of such insurance and self-insurance, to provide
16 individual health-care practitioners with coverage against claims of personal tort liability based
17 on conduct within the course and scope of health-care functions undertaken by such individuals
18 as employees, agents, or officers of (i) the University of North Carolina, (ii) any constituent
19 institution of the University of North Carolina, ~~(iii) the University of North Carolina Hospitals~~
20 ~~at Chapel Hill~~, or ~~(iv) (iii)~~ any health-care institution, agency or entity which has an affiliation
21 agreement with the University of North ~~Carolina, Carolina~~ or with a constituent institution of the
22 University of North ~~Carolina, or with the University of North Carolina Hospitals at Chapel Hill-~~
23 Carolina. The types of health-care practitioners to which the provisions of this Article may apply
24 include, but are not limited to, medical doctors, dentists, nurses, residents, interns, medical
25 technologists, nurses' aides, and orderlies. Subject to all requirements and limitations of this
26 Article, the coverage to be provided, through insurance or self-insurance or combination thereof,
27 may include provision for the payment of expenses of litigation, the payment of civil judgments
28 in courts of competent jurisdiction, and the payment of settlement amounts, in actions, suits or
29 claims to which this Article applies."

30 **SECTION 2.6.** G.S. 116-220(f) reads as rewritten:

31 "(f) By rules or regulations adopted by the Board in accordance with G.S. 116-220(b) of
32 this Article, the Board may provide that funds maintained in insurance trust accounts under such
33 a self-insured program of liability insurance may be used to pay any expenses, including damages
34 ordered to be paid, which may be incurred by the University of North ~~Carolina, Carolina~~ or a
35 constituent institution of the University of North ~~Carolina, or the University of North Carolina~~
36 ~~Hospitals at Chapel Hill~~ Carolina with respect to any tort claim, based on alleged negligent acts
37 in the provision of health-care services, which may be prosecuted under the provisions of Article
38 31 of Chapter 143 of the General Statutes."

39 **SECTION 2.7.** G.S. 116D-1(11) reads as rewritten:

40 "(11) University. – The University of North Carolina and its constituent and
41 affiliated institutions, including, without limitation, the University of North
42 Carolina Center for Public Television, ~~the University of North Carolina Health~~
43 ~~Care System~~, the North Carolina School of Science and Mathematics, and the
44 North Carolina Arboretum."

45 **SECTION 2.8.** G.S. 116D-22(2) reads as rewritten:

46 "(2) Institution. – Each of the institutions enumerated in G.S. 116-2, and any
47 affiliated institutions of the University, including, without limitation, the
48 University of North Carolina Center for Public Television, ~~the University of~~
49 ~~North Carolina Health Care System~~, the North Carolina School of Science and
50 Mathematics, and the North Carolina Arboretum."

51 **SECTION 2.9.** G.S. 126-5(c8) reads as rewritten:

1 "(c8) Except as to Articles 5, 6, 7, and 14 of this Chapter, this Chapter does not apply to
2 any of the following:

- 3 (1) Employees of the University of North Carolina Health Care System.
- 4 (2) Employees of the University of North Carolina Hospitals at Chapel Hill, ~~as~~
5 ~~may be provided pursuant to G.S. 116-37(a)(4).Hill.~~
- 6 (3) Employees of the clinical patient care programs of the School of Medicine of
7 the University of North Carolina at Chapel Hill ~~as may be provided pursuant~~
8 ~~to G.S. 116-37(a)(4).Hill.~~
- 9 (4) Employees of the Medical Faculty Practice Plan, a division of the School of
10 Medicine of East Carolina University."

11 **SECTION 2.10.** G.S. 131E-13 is amended by adding a new subsection to read:

12 "(i) This section does not apply to a transaction that is part of an agreement between a
13 municipality or hospital authority and the University of North Carolina Health Care System for
14 the lease, sale, or conveyance of a hospital facility, or part of a hospital facility, to the University
15 of North Carolina Health Care System."

16 **SECTION 2.11.** G.S. 135-1(10) reads as rewritten:

17 "(10) "Employee" shall mean all full-time employees, agents or officers of the State
18 of North Carolina or any of its departments, bureaus and institutions other than
19 educational, whether such employees are elected, appointed or employed:
20 Provided that the term "employee" shall not include any person who is a
21 member of the Consolidated Judicial Retirement System, any member of the
22 General Assembly Assembly, employees of the University of North Carolina
23 Health Care System who are not eligible for participation under G.S. 135-5.5,
24 or any part-time or temporary employee. Notwithstanding any other provision
25 of law, "employee" shall include all employees of the General Assembly
26 except participants in the Legislative Intern Program, pages, and beneficiaries
27 in receipt of a monthly retirement allowance under this Chapter who are
28 reemployed on a temporary basis. "Employee" also includes any participant
29 whose employment is interrupted by reason of service in the Uniformed
30 Services, as that term is defined in section 4303(16) of the Uniformed Services
31 Employment and Reemployment Rights Act, Public Law 103-353, if that
32 participant was an employee at the time of the interruption; if the participant
33 does not return immediately after that service to employment with a covered
34 employer in this System, then the participant shall be deemed "in service" until
35 the date on which the participant was first eligible to be separated or released
36 from his or her involuntary military service. In all cases of doubt, the Board
37 of Trustees shall determine whether any person is an employee as defined in
38 this Chapter. "Employee" shall also mean every full-time civilian employee
39 of the North Carolina National Guard who is employed pursuant to section
40 709 of Title 32 of the United States Code and paid from federal appropriated
41 funds, but held by the federal authorities not to be a federal employee:
42 Provided, however, that the authority or agency paying the salaries of such
43 employees shall deduct or cause to be deducted from each employee's salary
44 the employee's contribution in accordance with applicable provisions of
45 G.S. 135-8 and remit the same, either directly or indirectly, to the Retirement
46 System; coverage of employees described in this sentence shall commence
47 upon the first day of the calendar year or fiscal year, whichever is earlier, next
48 following the date of execution of an agreement between the Secretary of
49 Defense of the United States and the Adjutant General of the State acting for
50 the Governor in behalf of the State, but no credit shall be allowed pursuant to
51 this sentence for any service previously rendered in the above-described

1 capacity as a civilian employee of the North Carolina National Guard:
2 Provided, further, that the Adjutant General, in the Adjutant General's
3 discretion, may terminate the Retirement System coverage of the
4 above-described North Carolina National Guard employees if a federal
5 retirement system is established for such employees and the Adjutant General
6 elects to secure coverage of such employees under such federal retirement
7 system. Any full-time civilian employee of the North Carolina National Guard
8 described above who is now or hereafter may become a member of the
9 Retirement System may secure Retirement System credit for such service as
10 a North Carolina National Guard civilian employee for the period preceding
11 the time when such employees became eligible for Retirement System
12 coverage by paying to the Retirement System an amount equal to that which
13 would have constituted employee contributions if the employee had been a
14 member during the years of ineligibility, plus interest. Employees of State
15 agencies, departments, institutions, boards, and commissions who are
16 employed in permanent job positions on a recurring basis must work at least
17 30 hours per week for nine or more months per calendar year in order to be
18 covered by the provisions of this subdivision. On and after August 1, 2001, a
19 person who is a nonimmigrant alien and who otherwise meets the
20 requirements of this subdivision shall not be excluded from the definition of
21 "employee" solely because the person holds a temporary or time-limited visa."

22 **SECTION 2.12.** G.S. 135-1(11) reads as rewritten:

23 "(11) "Employer" shall mean the State of North Carolina, the county board of
24 education, the city board of education, the State Board of Education, the board
25 of trustees of the University of North Carolina, the University of North
26 Carolina Health Care System, the board of trustees of other institutions and
27 agencies supported and under the control of the State, or any other agency of
28 and within the State by which a teacher or other employee is paid. For
29 purposes of reporting under the pronouncements by the Governmental
30 Accounting Standards Board, the Retirement System is a multi-employer
31 plan."

32 **SECTION 2.13.** G.S. 135-5.1 reads as rewritten:

33 **"§ 135-5.1. Optional retirement program for The University of North Carolina.**

34 (a) An Optional Retirement Program provided for in this section is authorized and
35 established and shall be implemented by the Board of Governors of The University of North
36 Carolina. The Optional Retirement Program shall be underwritten by the purchase of annuity
37 contracts, which may be both fixed and variable contracts or a combination thereof, or financed
38 through the establishment of a trust, for the benefit of participants in the Program. Participation
39 in the Optional Retirement Program shall be limited to University personnel who are eligible for
40 membership in the Teachers' and State Employees' Retirement Program and who ~~are~~meet any
41 of the following criteria:

- 42 (1) Administrators and faculty of The University of North Carolina with the rank
43 of instructor or ~~above~~above.
- 44 (2) The President and employees of The University of North Carolina who are
45 appointed by the Board of Governors on recommendation of the President
46 pursuant to G.S. 116-11(4), 116-11(5), and 116-14 or who are appointed by
47 the Board of Trustees of a constituent institution of The University of North
48 Carolina upon the recommendation of the Chancellor pursuant to ~~G.S.~~
49 ~~116-40.22(b);~~G.S. 116-40.22(b).
- 50 (3) Nonfaculty instructional and research staff who are exempt from the North
51 Carolina Human Resources Act, as defined by the provisions of

- 1 G.S. 126-5(c1)(8), and the faculty of the North Carolina School of Science
2 and ~~Mathematics; and~~ Mathematics.
- 3 (4) Field faculty of the Cooperative Agriculture Extension Service, and tenure
4 track faculty in North Carolina State University agriculture research programs
5 who are exempt from the North Carolina Human Resources Act and who are
6 eligible for membership in the Teachers' and State Employees' Retirement
7 System pursuant to G.S. 135-3(1), who in any of the cases described in this
8 subsection (i) had been members of the Optional Retirement Program under
9 the provisions of Chapter 338, Session Laws of 1971, immediately prior to
10 July 1, 1985, or (ii) have sought membership as required in subsection (b),
11 below. Under the Optional Retirement Program, the State and the participant
12 shall contribute, to the extent authorized or required, toward the purchase of
13 such contracts or deposited in such trust on the participant's behalf.
- 14 (5) ~~Employees~~ To the extent allowed under G.S. 135-5.5, employees of The
15 University of North Carolina Health Care System, subject to rules for
16 eligibility and participation as may be adopted by the Board of Governors in
17 the Optional Retirement Program plan document.
- 18 (6) Employees hired on or after January 1, 2013.
- 19 (b) Participation in the Optional Retirement Program shall be governed as follows:
- 20 (1) Those participating in the Optional Retirement Program immediately prior to
21 July 1, 1985, under the provisions of Chapter 338, Session Laws of 1971, are
22 deemed automatically enrolled in the Program as established by this section.
- 23 (2) Eligible employees initially appointed on or after July 1, 1985, shall at the
24 same time of entering upon eligible employment elect (i) to join the
25 Retirement System in accordance with the provisions of law applicable thereto
26 or (ii) to participate in the Optional Retirement Program. This election shall
27 be in writing and filed with the Retirement System and with the employing
28 institution and shall be effective ~~as of~~ on the date of entry into eligible service.
29 For purposes of this provision, the Optional Retirement Program shall be
30 permitted to file individual election forms with the Retirement System using
31 electronic transmission.
- 32 (3) ~~An~~ Except as provided under G.S. 135-5.5, an election to participate in the
33 Optional Retirement Program shall be irrevocable. An eligible employee
34 failing to elect to participate in the Optional Retirement Program at the time
35 of entry into eligible service shall automatically be enrolled as a member of
36 the Retirement System.
- 37 ...
- 38 (c) Each employing institution shall contribute on behalf of each participant in the
39 Optional Retirement Program an amount equal to a percentage of the participant's compensation
40 as established from time to time by the General Assembly. Each participant shall contribute the
41 amount which he or she would be required to contribute if a member of the Retirement System.
42 Contributions authorized or required by the provisions of this subsection on behalf of each
43 participant shall be made, consistent with Section 414(h) of the Internal Revenue Code, by salary
44 reduction according to rules and regulations established by The University of North Carolina.
45 Additional personal contributions may also be made by a participant by payroll deduction or
46 salary reduction to an annuity or retirement income plan established pursuant to G.S. 116-17.
47 Payment of contributions shall be made by the employing institution to the designated company
48 or companies underwriting the annuities or the trustees for the benefit of each participant, and
49 this employer contribution shall not be subject to any State tax if made under the Optional
50 Retirement Program or, otherwise, by salary reduction.
- 51 ...

1 (g) No retirement benefit, death benefit, or other benefit under the Optional Retirement
2 Program shall be paid by the State of North Carolina, or The University of North Carolina, the
3 University of North Carolina Health Care System, or the Board of Trustees of the Teachers' and
4 State Employees' Retirement System with respect to any employee selecting and participating in
5 the Optional Retirement Program or with respect to any beneficiary of that employee. Benefits
6 shall be payable to participants or their beneficiaries only by the designated company in
7 accordance with the terms of the contracts or trust agreement.

8 (h) The Board of Governors of The University of North Carolina shall ensure that the
9 Optional Retirement Program contains benefit forfeiture provisions equivalent to those contained
10 in G.S. 135-18.10A for University personnel who are eligible for membership in the Teachers'
11 and State Employees' Retirement System and have elected participation in the Optional
12 Retirement Program. Any funds forfeited shall be deposited in the Optional Retirement Program
13 trust fund(s)."

14 **SECTION 2.14.** Article 1 of Chapter 135 of the General Statutes is amended by
15 adding a new section to read:

16 "**§ 135-5.5. Employees of the University of North Carolina Health Care System.**

17 (a) All employees of the University of North Carolina Health Care System who are (i)
18 employed before November 1, 2023, and (ii) are members of either the Retirement System or the
19 Optional Retirement Program before November 1, 2023, shall retain membership in that
20 Retirement System or that Optional Retirement Program unless the member makes a one-time,
21 irrevocable election to cease membership in the Retirement System or the Optional Retirement
22 Program in favor of a similar benefit offered by the University of North Carolina Health Care
23 System pursuant to G.S. 116-350.30.

24 (b) Employees of the University of North Carolina Health Care System who are hired on
25 or after November 1, 2023, shall not be eligible for membership in the Retirement System. The
26 University of North Carolina Health Care System shall offer employees of the System who are
27 hired on or after November 1, 2023, any of the following benefits:

28 (1) Membership in the Optional Retirement System.

29 (2) Enrollment in a similar benefit to the Optional Retirement System pursuant to
30 G.S. 116-350.30.

31 (3) A choice between the options provided in subdivision (1) and subdivision (2)
32 of this subsection.

33 (c) If any individual ceases to be employed by the University of North Carolina Health
34 Care System on or after November 1, 2023, and is later rehired by the University of North
35 Carolina Health Care System, then that individual shall be treated as an employee newly hired
36 on or after November 1, 2023, for the purposes of this section.

37 (d) The University of North Carolina Health Care System shall continue to report the
38 payroll of employees employed as of October 31, 2023, and shall continue to remit the employee
39 and employer contributions for all employees retaining membership in the Retirement System or
40 the Optional Retirement Program until none exist."

41 **SECTION 2.15.** G.S. 135-48.1(11) reads as rewritten:

42 "(11) Employing Unit. – A North Carolina School System; Community College;
43 State Department, Agency, or Institution; the University of North Carolina
44 Health Care System; Administrative Office of the Courts; or Association or
45 Examining Board whose employees are eligible for membership in a
46 State-Supported Retirement System. An employing unit also shall mean (i) a
47 charter school in accordance with Article 14A of Chapter 115C of the General
48 Statutes whose board of directors elects to become a participating employer
49 in the Plan under G.S. 135-48.54 or (ii) a local government unit that
50 participates in the Plan under G.S. 135-48.47 or under any other law. Bona
51 fide fire departments, rescue or emergency medical service squads, and

1 National Guard units are deemed to be employing units for the purpose of
2 providing benefits under this Article."

3 **SECTION 2.16.** G.S. 135-48.40(b) reads as rewritten:

4 "(b) Partially Contributory Coverage. – The following persons are eligible for coverage
5 under the Plan, on a partially contributory basis, subject to the provisions of G.S. 135-48.43:

6 (1) All permanent full-time employees of an employing unit who meet either of
7 the following conditions:

8 a. Paid from general or special State funds.

9 b. Paid from non-State funds and in a group for which his or her
10 employing unit has agreed to provide coverage.

11 Employees of State agencies, departments, institutions, boards, and
12 commissions not otherwise covered by the Plan who are employed in
13 permanent job positions on a recurring basis and who work 30 or more hours
14 per week for nine or more months per calendar year are covered by the
15 provisions of this ~~subdivision~~ subdivision, except for employees of the
16 University of North Carolina Health Care System who are enrolled in a
17 comprehensive health benefit plan offered by the University of North Carolina
18 Health Care System pursuant to G.S. 116-350.30.

19"

20 **SECTION 2.17.** G.S. 143-56 reads as rewritten:

21 "**§ 143-56. Certain purchases excepted from provisions of Article.**

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

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

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

28 Purchase through the Secretary of Administration shall not be mandatory for information
29 technology purchased in accordance with Article 15 of Chapter 143B of the General Statutes, for
30 a purchase of supplies, materials or equipment for the General Assembly if the total expenditures
31 is less than the expenditure benchmark established under the provisions of G.S. 143-53.1, for
32 group purchases made by hospitals, developmental centers, neuromedical treatment centers, and
33 alcohol and drug abuse treatment centers through a competitive bidding purchasing program, as
34 defined in G.S. 143-129, by the University of North Carolina Health Care System pursuant to
35 ~~G.S. 116-37(h)~~, G.S. 116-350.45, by the University of North Carolina Hospitals at Chapel Hill
36 pursuant to ~~G.S. 116-37(a)(4)~~, G.S. 116-350.15(d), by the University of North Carolina at Chapel
37 Hill on behalf of the clinical patient care programs of the School of Medicine of the University
38 of North Carolina at Chapel Hill pursuant to ~~G.S. 116-37(a)(4)~~, G.S. 116-350.15(d), or by East
39 Carolina University on behalf of the Medical Faculty Practice Plan pursuant to G.S. 116-40.6(c).

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

46 **SECTION 2.18.** G.S. 143-596(8) reads as rewritten:

47 "(8) The University of North Carolina Health Care System. – As defined in ~~G.S.~~
48 ~~116-37~~ Article 37 of Chapter 116 of the General Statutes."

49 **SECTION 2.19.** G.S. 143C-1-3 is amended by adding a new subsection to read:

1 "(d) Notwithstanding subsections (a) and (b) of this section, funds established for the
2 University of North Carolina Health Care System pursuant to G.S. 116-350.40 are exempt from
3 Chapter 143C of the General Statutes and shall be accounted for as provided by those statutes."

4 **SECTION 2.20.** G.S. 143C-8-7(a) reads as rewritten:

5 "(a) No State agency may expend funds for the construction or renovation of any capital
6 improvement project except as needed to comply with this Article or otherwise authorized by the
7 General Assembly. Funds that become available by gifts, ~~excess patient receipts above those~~
8 ~~budgeted at the University of North Carolina Hospitals at Chapel Hill,~~ federal or private grants,
9 receipts becoming a part of special funds by act of the General Assembly, or any other funds
10 available to a State agency or institution may be utilized for advanced planning through the
11 working drawing phase of capital improvement projects, upon approval of the Director of the
12 Budget."

13 **SECTION 2.21.** G.S. 143C-8-8 reads as rewritten:

14 "**§ 143C-8-8. When a State agency may increase the cost of a capital improvement project.**

15 Upon the request of the administration of a State agency, the Director of the Budget may,
16 when in the Director's opinion it is in the best interest of the State to do so, increase the cost of a
17 capital improvement project. Provided, however, that if the Director of the Budget increases the
18 cost of a project, the Director shall report that action to the Joint Legislative Commission on
19 Governmental Operations at its next meeting. The increase may be funded from gifts, federal or
20 private grants, special fund receipts, ~~excess patient receipts above those budgeted at the~~
21 ~~University of North Carolina Hospitals at Chapel Hill,~~ or direct capital improvement
22 appropriations to that department or institution."

23 **SECTION 2.22.** G.S. 146-22(c) reads as rewritten:

24 "(c) Acquisitions on behalf of the University of North Carolina Health Care System shall
25 be made in accordance with ~~G.S. 116-37(i),~~ G.S. 116-350.50, acquisitions on behalf of the
26 University of North Carolina Hospitals at Chapel Hill shall be made in accordance with ~~G.S.~~
27 ~~116-37(a)(4),~~ G.S. 116-350.15(d), acquisitions on behalf of the clinical patient care programs of
28 the School of Medicine of The University of North Carolina at Chapel Hill shall be made in
29 accordance with ~~G.S. 116-37(a)(4),~~ G.S. 116-350.15(d), and acquisitions on behalf of the
30 Medical Faculty Practice Plan of the East Carolina University School of Medicine shall be made
31 in accordance with G.S. 116-40.6(d)."

32 **SECTION 2.23.** G.S. 147-69.2(a)(16a) reads as rewritten:

33 "(16a) The University of North Carolina Hospitals at Chapel Hill funds, except
34 appropriated funds, deposited with the State Treasurer pursuant to
35 ~~G.S. 116-37.2.~~ G.S. 116-350.40."

37 **PART III. EFFECTIVE DATE**

38 **SECTION 3.1.** This act becomes effective July 1, 2023.