

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 2725

Short Title: UNC Operating/Capital Funds/Airport Auth. (Public)

Sponsors: Representatives Yongue, Insko, Glazier (Primary Sponsors); Bordsen and Faison.

Referred to: Appropriations.

May 28, 2008

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE OPERATING AND CAPITAL FUNDS TO THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA AND TO ALLOW THE UNIVERSITY OF NORTH CAROLINA TO CREATE AIRPORT AUTHORITIES TO SUPPORT THE MISSION OF THE UNIVERSITY, ITS CONSTITUENT INSTITUTIONS, OR THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. There is appropriated from the General Fund to the Board of Governors of The University of North Carolina the sum of two hundred eighty-three million four hundred seventy-one thousand nine hundred five dollars (\$283,471,905) in recurring funds and twenty-seven million six hundred twenty thousand (\$27,620,000) in nonrecurring funds for the 2008-2009 fiscal year to be used for the following purposes:

- | | | |
|-----|---|-----------------|
| (1) | Campus Safety | \$11,700,000 |
| | | \$17,500,000 NR |
| (2) | Academic Salary Increases | \$153,847,371 |
| (3) | Student Success, Retention & Graduation | \$ 300,000 NR |
| (4) | Research and Competitiveness | \$58,839,711 |
| | | \$ 7,800,000 NR |
| (5) | More and Better Teachers & Improved Schools | \$ 8,504,800 |
| (6) | Health Care | \$24,000,000 |
| (7) | Economic Development | \$23,668,750 |
| (8) | UNC Systems Support & Data Integration | \$ 1,957,751 |
| | | \$ 2,020,000 NR |
| (9) | Affiliated Entities | \$ 953,522 |

SECTION 2. There is appropriated from the General Fund to the Board of Governors of The University of North Carolina the sum of thirty-four million six hundred sixty-seven thousand two hundred sixty-four dollars (\$34,667,264) in recurring

1 funds for the 2008-2009 fiscal year to support enrollment changes over original
2 projection for the 2008-2009 academic year.

3 **SECTION 3.** The Board of Governors of The University of North Carolina
4 is authorized to reprogram funds budgeted for contract slots with universities in other
5 states that support dentistry, medicine, and optometry. Funds shall be reprogrammed to
6 expand the Board of Governors' Medical Scholarship Program and the Board of
7 Governors' Dental Scholarship Program. The Board of Governors shall make these
8 transfers each fiscal year as contract slots are phased out.

9 **SECTION 4.** There is appropriated from the General Fund to the Board of
10 Governors of The University of North Carolina the sum of seven hundred thirty-seven
11 million two hundred ninety-three thousand three hundred forty dollars (\$737,293,340)
12 in non-recurring funds for the 2008-2009 fiscal year to fund the following capital
13 improvement projects:

| | 2008-2009 |
|--|--------------|
| (1) Fire Safety Improvements | \$38,500,000 |
| (2) ECU School of Dentistry | \$62,000,000 |
| (3) ECSU School of Education Building | \$18,000,000 |
| (4) NCA&T General Classroom Instructional Facility | \$20,487,000 |
| (5) NCCU School of Nursing Building | \$22,500,000 |
| (6) NCSSM Discovery Science Labs/ Classrooms/Resident Hall | \$66,663,000 |
| (7) NCSU Centennial Campus Library | \$97,000,000 |
| (8) UNC-CH School of Dentistry Oral Sciences Building | \$69,000,000 |
| (9) UNC-C Energy Production Infrastructure Center | \$57,218,000 |
| (10) UNC-G Academic Classroom & Office Building | \$42,667,000 |
| (11) WSSU Student Activity Center Budget Supplement | \$ 9,799,000 |
| (12) Land Acquisition | \$25,000,000 |
| (13) ASU College of Nursing and Health Sciences Building – Planning | \$ 4,200,000 |
| (14) ECU New Family Medicine/Geriatric Center | \$36,800,000 |
| (15) ECSU School of Aviation Complex | \$14,500,000 |
| (16) FSU Teaching Education and General Classroom Building – Planning | \$ 4,272,100 |
| (17) NCA&T Joint Primary Data Center Planning (with UNC-G) | \$ 2,315,020 |
| (18) NCSA Central Storage Facility Planning | \$ 1,110,000 |
| (19) NCSU Engineering Complex Planning | \$21,373,400 |
| (20) UNC-A Carmichael Hall and University Lecture Hall – Planning | \$ 2,680,100 |
| (21) UNC-CH Carolina North Development Phase 1 – Planning | \$16,900,000 |
| (22) UNC-CH Biomedical Research Imaging Center – Complete Planning | \$19,500,000 |

| | | | |
|----|------|---|--------------|
| 1 | (23) | UNC-C Science Building – Planning | \$12,000,000 |
| 2 | (24) | UNC-G Joint Primary Data Center | \$ 2,315,020 |
| 3 | | Planning (with NCA&T) | |
| 4 | (25) | UNC-P Information Commons Building Planning | \$ 5,000,000 |
| 5 | (26) | UNC-W Allied Health and Human | \$ 4,320,000 |
| 6 | | Sciences Building – Planning | |
| 7 | (27) | WCU Education and Allied Professions | \$ 4,018,700 |
| 8 | | Building – Planning | |
| 9 | (28) | WSSU Sciences and General Office Building | \$24,900,000 |
| 10 | (29) | WSSU/NCSA Center for Design | \$ 1,500,000 |
| 11 | | Innovation – Site Preparation | |
| 12 | (30) | UNC Health Care Inpatient Bed Tower | \$16,275,000 |
| 13 | | and Operating Room Facility – Planning | |
| 14 | (31) | Upper Coastal Plain Higher Education Center | \$14,480,000 |

SECTION 5. G.S. 116-11 is amended by adding a new subdivision to read:

"(12c) The Board of Governors may create airport authorities to support the missions of The University of North Carolina, its constituent institutions, or the University of North Carolina Health Care System. An authority so created shall be a political subdivision of the State. The territorial jurisdiction of the authority shall be a county or counties in which the authority operates, or proposes to operate, an airport. Article 33 of this Chapter provides for such authorities."

SECTION 6. Chapter 116 of the General Statutes is amended by adding a new Article to read:

"Article 33.

"Airport Authorities.

"§ 116-271. General provisions.

(a) As provided by G.S. 116-11(12c), the Board of Governors may create airport authorities to support the missions of The University of North Carolina, its constituent institutions, or the University of North Carolina Health Care System. An authority so created shall be a political subdivision of the State. The territorial jurisdiction of the authority shall be one or two listed counties in which the authority operates, or proposes to operate, an airport.

(b) To create an airport authority under this Article, the Board of Governors by resolution shall name the authority and list the county or counties in which the airport authority is proposed to operate an airport. If a resolution names two counties, it may later be amended to reduce the number of counties to one.

"§ 116-272. Systemwide authority membership.

(a) Where an airport authority is created to support the mission of The University of North Carolina System, it shall consist of 11 members: six members shall be appointed to three-year terms by the Board of Governors upon recommendation of the President, provided that three of the initial members so appointed shall serve terms of three years and three shall serve terms of two years; three members shall be appointed by the board of commissioners of the county or counties having territorial jurisdiction

1 over the authority as provided by subsections (b) through (d) of this section; and two
2 members shall be appointed by the municipalities within that county or counties as
3 provided by subsections (e) through (g) of this section.

4 (b) Where there is a single county with territorial jurisdiction over the authority,
5 the board of commissioners shall appoint three members. One of the initial members
6 shall be appointed for a one-year term, one for a two-year term, and one for a three-year
7 term. Successors shall be appointed for three-year terms.

8 (c) When there are two counties with territorial jurisdiction over the authority,
9 the Board of Governors shall designate one county to appoint two members and the
10 other county to appoint one member. The county with two members shall appoint one
11 initial member for a two-year term and one initial member for a one-year term. The
12 county with one member shall appoint one initial member for a three-year term.

13 (d) If the Board of Governors has initially designated two counties having
14 territorial jurisdiction over the authority and later reduces it by resolution to one county,
15 the seat of the member or members of the county or counties no longer having territorial
16 jurisdiction over the authority is vacated on the date specified by the resolution, and the
17 remaining county shall appoint a person or persons to fill the remainder of the unexpired
18 term or terms.

19 (e) Where there is a single county with territorial jurisdiction over the authority,
20 the municipality with the largest population within that county based on the most recent
21 decennial federal census shall appoint one member for a two-year term. The
22 municipalities with the second and third largest populations within that county based on
23 the most recent decennial federal census shall alternately appoint one member for a
24 two-year term, with the second largest municipality making the initial appointment.

25 (f) Where there are two counties with territorial jurisdiction over the authority,
26 the municipality with the largest population within those counties based on the most
27 recent decennial federal census shall appoint one member for a two-year term. The
28 municipalities with the second and third largest populations within those counties based
29 on the most recent decennial federal census shall alternately appoint one member for a
30 two-year term, with the second largest municipality making the initial appointment.

31 (g) If the Board of Governors has initially designated two counties having
32 territorial jurisdiction over the authority and later reduces it by resolution to one county,
33 all municipally appointed seats on the authority are vacated and new appointments made
34 in accordance with subsection (e) of this section.

35 (h) All vacancies on the authority shall be filled by the governing board
36 authorized to make the initial appointment, and the appointment is for the remainder of
37 the unexpired term.

38 **"§ 116-273. Single or multi-institution authority membership**

39 (a) Where an airport authority is created to support the mission of a particular
40 constituent institution of The University of North Carolina, it shall consist of 11
41 members: six members shall be appointed to three-year terms by the Board of
42 Governors upon recommendation of the Board of Trustees of that constituent institution,
43 provided that three of the initial members so appointed shall serve terms of three years
44 and three shall serve terms of two years; three members shall be appointed by the board

1 of commissioners of the county or counties having territorial jurisdiction over the
2 authority as provided by subsections (b) through (d) of this section; and two members
3 shall be appointed by the municipalities within that county or counties as provided by
4 subsections (e) through (g) of this section. An airport authority may also be created to
5 support the mission of two constituent institutions, and in that case, the six members
6 appointed by the Board of Governors shall include an equal number of representatives
7 of each such constituent institution unless it is impossible to do so, in which case the
8 Board of Governors shall determine a fair representation on the airport authority from
9 each such constituent institution.

10 (b) Where there is a single county with territorial jurisdiction over the authority,
11 the board of commissioners shall appoint three members. One of the initial members
12 shall be appointed for a one-year term, one for a two-year term, and one for a three-year
13 term. Successors shall be appointed for three-year terms.

14 (c) When there are two counties with territorial jurisdiction over the authority,
15 the Board of Governors shall designate one county to appoint two members and the
16 other county to appoint one member. The county with two members shall appoint one
17 initial member for a two-year term and one initial member for a one-year term. The
18 county with one member shall appoint one initial member for a three-year term.

19 (d) If the Board of Governors has initially designated two counties having
20 territorial jurisdiction over the authority and later reduces it by resolution to one county,
21 the seat of the member or members of the county or counties no longer having territorial
22 jurisdiction over the authority is vacated on the date specified by the resolution, and the
23 remaining county shall appoint a person or persons to fill the remainder of the unexpired
24 term or terms.

25 (e) Where there is a single county with territorial jurisdiction over the authority,
26 the municipality with the largest population within that county based on the most recent
27 decennial federal census shall appoint one member for a two-year term. The
28 municipalities with the second and third largest populations within that county based on
29 the most recent decennial federal census shall alternately appoint one member for a
30 two-year term, with the second largest municipality making the initial appointment.

31 (f) Where there are two counties with territorial jurisdiction over the authority,
32 the municipality with the largest population within those counties based on the most
33 recent decennial federal census shall appoint one member for a two-year term. The
34 municipalities with the second and third largest populations within those counties based
35 on the most recent decennial federal census shall alternately appoint one member for a
36 two-year term, with the second largest municipality making the initial appointment.

37 (g) If the Board of Governors has initially designated two counties having
38 territorial jurisdiction over the authority and later reduces it by resolution to one county,
39 all municipally appointed seats on the authority are vacated and new appointments made
40 in accordance with subsection (e) of this section.

41 (h) All vacancies on the authority shall be filled by the governing board
42 authorized to make the initial appointment, and the appointment is for the remainder of
43 the unexpired term.

44 **"§ 116-274. UNC Health Care System authority membership**

1 (a) Where an airport authority is created to support the mission of The University
2 of North Carolina Health Care System, it shall consist of 11 members: six members
3 shall be appointed to three-year terms by the Board of Directors, provided that three of
4 the initial members so appointed shall serve terms of three years and three shall serve
5 terms of two years; three members shall be appointed by the board of commissioners of
6 the county or counties having territorial jurisdiction over the authority as provided by
7 subsections (b) through (d) of this section; and two members shall be appointed by the
8 municipalities within that county or counties as provided by subsections (e) through (g)
9 of this section.

10 (b) Where there is a single county with territorial jurisdiction over the authority,
11 the board of commissioners shall appoint three members. One of the initial members
12 shall be appointed for a one-year term, one for a two-year term, and one for a three-year
13 term. Successors shall be appointed for three-year terms.

14 (c) When there are two counties with territorial jurisdiction over the authority,
15 the Board of Governors shall designate one county to appoint two members and the
16 other county to appoint one member. The county with two members shall appoint one
17 initial member for a two-year term and one initial member for a one-year term. The
18 county with one member shall appoint one initial member for a three-year term.

19 (d) If the Board of Governors has initially designated two counties having
20 territorial jurisdiction over the authority and later reduces it by resolution to one county,
21 the seat of the member or members of the county or counties no longer having territorial
22 jurisdiction over the authority is vacated on the date specified by the resolution, and the
23 remaining county shall appoint a person or persons to fill the remainder of the unexpired
24 term or terms.

25 (e) Where there is a single county with territorial jurisdiction over the authority,
26 the municipality with the largest population within that county based on the most recent
27 decennial federal census shall appoint one member for a two-year term. The
28 municipalities with the second and third largest populations within that county based on
29 the most recent decennial federal census shall alternately appoint one member for a
30 two-year term, with the second largest municipality making the initial appointment.

31 (f) Where there are two counties with territorial jurisdiction over the authority,
32 the municipality with the largest population within those counties based on the most
33 recent decennial federal census shall appoint one member for a two-year term. The
34 municipalities with the second and third largest populations within those counties based
35 on the most recent decennial federal census shall alternately appoint one member for a
36 two-year term, with the second largest municipality making the initial appointment.

37 (g) If the Board of Governors has initially designated two counties having
38 territorial jurisdiction over the authority and later reduces it by resolution to one county,
39 all municipally appointed seats on the authority are vacated and new appointments made
40 in accordance with subsection (e) of this section.

41 (h) All vacancies on the authority shall be filled by the governing board
42 authorized to make the initial appointment, and the appointment is for the remainder of
43 the unexpired term.

44 **"§ 116-275. Capital financing.**

1 In addition to other powers granted by this Article, an airport authority created under
2 this Article has authority to finance capital expenditures and operations as is generally
3 granted the Board of Governors under this Chapter, including powers delegated to or
4 conferred upon the constituent institutions or the University of North Carolina Health
5 Care System.

6 **"§ 116-276. General powers.**

7 (a) An authority created under this Article has all powers that a city or county has
8 under Articles 1 through 7 of Chapter 63 of the General Statutes.

9 (b) In addition to the powers granted by subsection (a) of this section, an
10 authority created under this Article has the following powers:

11 (1) To sue and be sued in the name of the airport authority, and all
12 pleadings served upon the airport authority shall be served on the
13 chairperson or secretary of the airport authority.

14 (2) To expend funds appropriated to it from time to time for airport
15 purposes and to expend funds received by the authority from fees,
16 charges, rents, and dues arising out of the operation of the airport, the
17 facilities, improvements, and concessions located thereat or operated
18 thereon.

19 (3) To establish, construct, control, lease, maintain, improve, operate, and
20 regulate an airport on lands acquired by it with buildings necessary to
21 accommodate all types of business to operate an airport, runways, taxi
22 ramps, parking ramps, and any equipment to operate an airport, to
23 have complete authority for rules and regulations over all airport
24 property for the control of all types of vehicular traffic, mobile or
25 stationary, and pedestrian traffic with respect to areas or roadways not
26 under the control of the Department of Transportation and any rules
27 adopted by the airport authority for property exclusively under its
28 control, and to have conjunctive authority to work with and cooperate
29 with all duly constituted law enforcement agencies to enforce rules
30 established by the State of North Carolina. The penalty for violation of
31 rules established by the airport authority shall be a Class 3
32 misdemeanor and, upon conviction, shall be punishable by a fine not to
33 exceed fifty dollars (\$50.00) or imprisonment not to exceed 30 days.
34 All rules and regulations so adopted by the airport authority shall be
35 recorded by delivering true copies thereof certified by the chairperson
36 and secretary of the authority to the Secretary of the Board of
37 Governors and to the Secretary of State.

38 (4) For the public use or benefit, the authority shall possess the power of
39 eminent domain and may acquire by purchase, gift, or condemnation
40 any property for the purpose of establishing, extending, enlarging, or
41 improving an airport. The authority is declared to be a local public
42 condemnor under the provisions of Chapter 40A of the General
43 Statutes and in exercising the powers of eminent domain shall follow
44 the procedures of Article 3 of Chapter 40A of the General Statutes.

1 Title to the property and the right of immediate possession shall vest
2 pursuant to subsection (a) of G.S. 40A-42. If property acquired by
3 condemnation contains a burial ground or graveyard, then it shall be
4 lawful for the airport authority after 30 days notice to the surviving
5 spouse, or the next of kin of the deceased buried therein, or the person
6 in control of the graves, if any are known, to remove the body interred
7 therein and reinter the same in some cemetery in the same county. If
8 no surviving spouse or next of kin or person in control can be found,
9 then the airport authority can advertise for four consecutive weeks in a
10 newspaper published in the county of the intended removal of the
11 gravesite, and the removal shall be conducted under the supervision of
12 the clerk of the superior court for that county or his or her
13 representative, and the expense of such removal shall be borne by the
14 airport authority. The airport authority may dispose of any real or
15 personal property belonging to it according to the procedures described
16 in Article 12 of Chapter 160A of the General Statutes.

17 (5) To lease to other entities for a term not to exceed 20 years and for
18 purposes not inconsistent with airport purposes or usage, real or
19 personal property or both, under the supervision of or administered by
20 the airport authority.

21 (6) To contract with persons, firms, or corporations for terms not to
22 exceed 20 years, for the operation of passenger and freight flights,
23 scheduled or nonscheduled, and any other plane or flight activities not
24 inconsistent with airport operations and to charge and collect
25 reasonable fees, charges, and rents for the use of such property and
26 services rendered in the operation thereof.

27 (7) To operate, own, control, regulate, lease, or grant to others the license
28 to operate amusements or concessions for a term not exceeding 20
29 years.

30 (8) To enter into contracts to pledge as security the property of the airport
31 authority.

32 (9) To pledge any lease agreement to which it is a party as security for any
33 loan.

34 (10) To adopt and use a seal.

35 (11) To contract with the Federal Aviation Administration of the United
36 States of America or with the State of North Carolina or with any of
37 the agencies or representatives of either of said governmental bodies
38 relating to the grading, constructing, equipping, improving,
39 maintaining, or operating of an airport or its facilities, or both.

40 (12) To receive refunds of sales and use taxes under G.S. 105-164.14(c).

41 (13) To accept grants, loans, or contributions from the United States, the
42 State of North Carolina, or any agency or instrumentality of either of
43 them, or from any county or other municipality, and to expend the
44 proceeds for any purposes of the authority.

1 (14) To accept grants, loans, or contributions from nonprofit organizations
2 and to expend the proceeds for any purposes of the authority.

3 (15) To adopt organizational bylaws that shall include, but not be limited
4 to, provision for election, duties, and terms of a Chair and Secretary.

5 (c) The authority shall enjoy governmental immunity, however, the authority
6 may contract to insure itself and any of its officers, agents, or employees against
7 liability for wrongful death or negligence or intentional damage to persons or property
8 or against absolute liability for damage to persons or property caused by an act or
9 omission of the authority or of any of its officers, agents, or employees when acting
10 within the scope of their authority and the course of their employment. The members of
11 the authority shall determine what liabilities and what officers, agents, and employees
12 shall be covered by any insurance purchased pursuant to this provision.

13 Purchase of insurance pursuant to this provision waives the authority's governmental
14 immunity to the extent of insurance coverage for any act or omission occurring in the
15 exercise of a governmental function. By entering into an insurance contract with the
16 authority, an insurer waives any defense based upon the governmental immunity of the
17 authority.

18 If the authority has waived its governmental immunity pursuant to the foregoing
19 provisions of this section, any person, or if he dies, his personal representative,
20 sustaining damages as a result of an act or omission of the authority or any of its
21 officers, agents, or employees occurring in the exercise of a governmental function, may
22 sue the authority for recovery of damages. To the extent of the coverage of insurance
23 purchased pursuant to this section, governmental immunity may not be a defense to the
24 action. Otherwise, however, the authority has all defenses available to private litigants
25 in any action brought pursuant to these provisions without restriction, limitation, or
26 other effect whether the defense arises from common law or by virtue of a statute.

27 "**§ 116-277. Cessation of operation.**

28 In the event of cessation of the operation of an airport established under this Article,
29 or the abandonment of any of the property acquired hereunder for airport purposes, the
30 title to such real or personal property or rights under any existing lease shall vest in The
31 University of North Carolina, and upon the sale of any property after cessation of
32 operations, the proceeds therefrom shall vest in the University."

33 **SECTION 7.** This act becomes effective July 1, 2008.