

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1257*

Short Title: Budget Adjustments/Conforming.

(Public)

Sponsors: Senators Plyler, Martin of Pitt, Martin of Guilford, Odom; Rand, Ballance, Warren, and Perdue.

Referred to: Judiciary II/Election Laws.

May 22, 1996

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CONFORMING CHANGES TO IMPLEMENT BUDGET
3 ADJUSTMENTS AND ALLOCATIONS.

4 The General Assembly of North Carolina enacts:

5 Section 1. (a) Article 1 of Chapter 143 of the General Statutes is amended by
6 adding a new section to read:

7 "**§ 143-4.2. Budget Adjustment and Allocation Commission.**

8 (a) There is established within the Legislative Branch the Budget Adjustment and
9 Allocation Commission.

10 (b) The Budget Adjustment and Allocation Commission shall consist of 17
11 members as follows:

12 (1) The Speaker of the House of Representatives or a member of the House
13 of Representatives designated by that officer.

14 (2) The President Pro Tempore of the Senate or a member of the Senate
15 designated by that officer.

16 (3) Five members of the House of Representatives appointed by the
17 Speaker of the House of Representatives.

18 (4) Five members of the Senate appointed by the President Pro Tempore of
19 the Senate.

1 (5) Five members of the General Assembly appointed by the Governor, at
2 least two of whom shall be members of the House of Representatives,
3 and at least two of whom shall be members of the Senate.

4 An appointed member serves a term beginning 10 days after convening of the regular
5 session and ending 10 days after convening of the next regular session, except that: (i)
6 the appointing officer may remove a member with cause satisfactory to the
7 appointing officer, and (ii) resignation or removal from office of a member of the General
8 Assembly vacates that person's membership on the Commission.

9 A member may serve beyond the end of that member's term of office as a member of
10 the General Assembly, and an appointing officer may continue to make appointments
11 until the successor to that office is chosen. A person designated under subdivisions (1)
12 or (2) of this subsection serves at the pleasure of the designating officer.

13 (c) The President Pro Tempore and the Speaker of the House of Representatives
14 shall serve as cochair of the Budget Adjustment and Allocation Commission, except that
15 either of them may designate a person they appointed or designated to the Budget
16 Adjustment and Allocation Commission to serve as cochair at their pleasure.

17 (d) The Budget Adjustment and Allocation Commission shall meet monthly at a
18 time and place designated by the Budget Adjustment and Allocation Commission and
19 shall meet on the joint call of the cochair. A quorum is a majority of the members of the
20 Budget Adjustment and Allocation Commission.

21 (e) The Budget Adjustment and Allocation Commission has the following powers
22 and duties under Article III, Section 5(3) of the Constitution of North Carolina:

23 (1) Approval of allocations from the Contingency and Emergency Fund.

24 (2) Approval of an overexpenditure of the total requirements of a program
25 as enacted by the General Assembly.

26 (3) Approval of any procedures to reduce programs subsequent to a
27 reduction of ten percent (10%) or more in the federal fund level certified
28 to a department and any subsequent changes in distribution formulas.

29 (4) Approval for extraordinary measures under Article III, Section 5(3) of
30 the Constitution to effect necessary economies in State expenditures
31 required for balancing the budget due to a revenue shortfall, including,
32 but not limited to, the following: loans among funds, personnel freezes
33 or layoffs, capital project reversions, program eliminations, and use of
34 reserves.

35 (5) Approval of new capital improvement projects funded from gifts,
36 grants, receipts, special funds, self-liquidating indebtedness, and other
37 funds or any combination of funds for any project not specifically
38 authorized by the General Assembly. The budget for each capital
39 project must include projected revenues in an amount not less than
40 projected expenditures.

41 The Budget Adjustment and Allocation Commission has oversight of other revenues
42 and expenditures when it finds it appropriate.

1 (f) Notwithstanding subsection (e) of this section or any other provision of law
2 requiring the approval of the Commission, whenever an expenditure is required because
3 of an emergency that poses an imminent threat to public health or public safety, and is
4 either the result of a natural event, such as a hurricane or a flood, or an accident, such as
5 an explosion or a wreck, the Governor may take action under this subsection without
6 approval of the Commission if the action is determined by the Governor to be related to
7 the emergency. The Governor shall report to the Commission on any expenditures made
8 under this subsection no later than 30 days after making the expenditure and shall identify
9 in the report the emergency, the type of action taken, and how it was related to the
10 emergency."

11 (b) The initial appointments under G.S. 143-4.2(b) as enacted by subsection (a)
12 of this section shall be for terms beginning on the effective date of that section and
13 ending on the tenth day after convening of the 1997 Regular Session of the General
14 Assembly.

15 Sec. 2. G.S. 143-15.3A is amended by adding a new subsection to read:

16 "(c) Allocations by the Governor from the Repairs and Renovations Reserve
17 Account require the approval of the Joint Legislative Commission on Governmental
18 Operations under Article III, Section 5(3) of the Constitution of North Carolina.

19 Notwithstanding this subsection, whenever an expenditure is required because of an
20 emergency that poses an imminent threat to public health or public safety, and is either
21 the result of a natural event, such as a hurricane or a flood, or an accident, such as an
22 explosion or a wreck, the Governor may take action under this subsection without
23 approval of the Commission if the action is determined by the Governor to be related to
24 the emergency. The Governor shall report to the Commission on any expenditures made
25 under this subsection no later than 30 days after making the expenditure and shall identify
26 in the report the emergency, the type of action taken, and how it was related to the
27 emergency."

28 Sec. 3. G.S. 143-12 reads as rewritten:

29 "**§ 143-12. Bills containing proposed appropriations.**

30 (a) The Director shall cause to be prepared and submitted to the General Assembly
31 the following bills:

32 (1) A bill containing all proposed current operations appropriations of the
33 budget for each year in the ensuing biennium, which shall be known as
34 the 'Current Operations Appropriations Bill', and a bill containing all
35 proposed capital appropriations of the budget for each year in the
36 ensuing biennium, which shall be known as the 'Capital Improvement
37 Appropriations Bill'.

38 (2) If necessary, a bill containing the Director of the Budget's views on
39 revenue for the ensuing biennium, which shall be known as the 'Budget
40 Revenue Bill', and shall provide an amount of revenue for the ensuing
41 biennium sufficient, in the opinion of the Director and the Commission,
42 to meet the appropriations contained in the Current Operations
43 Appropriations Bill and the Capital Improvement Appropriations Bill.

1 (3) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1034, s.
2 153.

3 **(b)** To the end that all expenses of the State may be brought and kept within the
4 budget, the Current Operations Appropriations Bill shall contain a specific sum as a
5 contingent or emergency appropriation, and shall allocate a specific portion of that sum to
6 a special reserve to be used solely for purposes as outlined in ~~G.S. 143-23(a1)(3), (4), and~~
7 ~~(5).~~ G.S. 143-23(a1)(2). Notwithstanding any other provision of law, the manner of
8 the allocation of such contingent or emergency appropriation shall be as follows: Any
9 institution, department, commission, or other agency or activity of the State, or other
10 activity in which the State is interested, desiring an allotment out of such contingent or
11 emergency appropriation, shall upon forms prescribed and furnished by the Director of
12 the Budget, present such request in writing to the Director of the Budget, with such
13 information as he may require, and if the Director of the Budget shall approve such
14 request, in whole or in part, and with the prior consent of the Budget Adjustment and
15 Allocation Commission, he shall forthwith present the same to the Governor and Council
16 of State, and upon their order only shall such allotment be made. If the Director shall
17 disapprove the request of such an allotment out of the emergency or contingent
18 appropriation, he shall transmit his refusal and his reason therefor to the Governor and
19 Council of State, for their information.

20 Funds allocated from the contingent or emergency appropriation may be used only for
21 the purpose for which they were allocated and may not be reallocated for another purpose
22 by the Governor. If the funds are not spent or encumbered for the purpose for which they
23 were allocated by the end of the fiscal biennium and if the Governor and the Council of
24 State do not reallocate them for that same purpose, the funds shall revert to the fund from
25 which the contingent or emergency appropriation was made. Also, if the funds are not
26 needed for the purpose for which they were allocated, the funds shall revert to the fund
27 from which the contingent or emergency appropriation was made.

28 **(c)** The Director of the Budget may, in preparation of the Appropriations and
29 Revenue Bills, seek the advice of the Advisory Budget Commission. If the Director and
30 the Commission shall not agree as to the Appropriations and Revenue Bills in substantial
31 particulars, the Director shall prepare the same, based on his conclusions and judgment,
32 and the Commission or any of its members retain the right to submit separately to the
33 General Assembly such statement of disagreement and the particulars thereof as they
34 shall find proper to submit as representing their own views."

35 Sec. 4. G.S. 143-15.3A(b) reads as rewritten:

36 **"(b)** The funds in the Repairs and Renovations Reserve Account shall be used only
37 for the repair and renovation of State facilities and related infrastructure that are
38 supported from the General Fund. Funds from the Repairs and Renovations Reserve
39 Account shall be used only for the following types of projects:

- 40 (1) Roof repairs and replacements;
- 41 (2) Structural repairs;
- 42 (3) Repairs and renovations to meet federal and State standards;

- 1 (4) Repairs to electrical, plumbing, and heating, ventilating, and air-
- 2 conditioning systems;
- 3 (5) Improvements to meet the requirements of the Americans with
- 4 Disabilities Act, 42 U.S.C. § 12101 et seq., as amended;
- 5 (6) Improvements to meet fire safety needs;
- 6 (7) Improvements to existing facilities for energy efficiency;
- 7 (8) Improvements to remove asbestos, lead paint, and other contaminants,
- 8 including the removal and replacement of underground storage tanks;
- 9 (9) Improvements and renovations to improve use of existing space;
- 10 (10) Historical restoration;
- 11 (11) Improvements to roads, walks, drives, utilities infrastructure; and
- 12 (12) Drainage and landscape improvements.

13 Funds from the Repairs and Renovations Reserve Account shall not be used for new
14 construction or the expansion of the footprint of an existing facility unless required in
15 order to comply with federal or State codes or standards.

16 The Director of the Budget shall not use funds in the Repairs and Renovations
17 Reserve Account unless the use has been approved by an act of the General ~~Assembly~~
18 Assembly or by the Joint Legislative Commission on Governmental Operations under
19 G.S. 143-15.3A(c)."

20 Sec. 5. G.S. 143-18.1(c) reads as rewritten:

21 "(c) Upon the request of the administration of any State agency or institution, the
22 Director of the Budget may accept funds by gift or grant for the construction of a capital
23 improvement project not specifically provided for or authorized by the General
24 Assembly. These funds shall be placed in a special reserve account to be held by the State
25 Treasurer until the end of the biennium in which the account was established or until the
26 capital improvement project is authorized by the Director of the Budget, whichever
27 occurs first. These funds shall be invested and the interest thereon shall be added to the
28 reserve. If the project is not authorized by the end of that biennium, the State Treasurer
29 shall pay the funds accumulated in the special reserve account to the grantor or donor.
30 Upon the establishment of a special reserve account under this section, the Director of the
31 Budget shall notify the Speaker of the House and President of the Senate of the receipt of
32 the funds and the existence of the reserve account. Upon the request of the administration
33 of any State agency or institution, the Governor ~~may~~ may, under G.S. 143-4.2, authorize
34 the construction of a capital improvement project not specifically authorized by the
35 General Assembly if such project is to be fully funded by gifts, grants, receipts, special
36 funds, self-liquidating indebtedness, other funds, or any combination of funds, but not
37 including funds appropriated from the General Fund. All expenditures under this
38 authorization shall be handled in full compliance with the provisions of the Executive
39 Budget Act.

40 The agency shall support its request for such capital improvement project, or projects,
41 with the following information: the estimated annual operating costs for (i) utilities; (ii)
42 maintenance; (iii) repairs; (iv) additional personnel; (v) any and all other expenses to the
43 State resulting from the addition of this facility to the plant of the institution. Prior to

1 taking any action under this section to authorize a project, the Governor or the Director of
2 the Budget may consult with the Advisory Budget Commission and the Capital Planning
3 Commission."

4 Sec. 6. G.S. 143-23 reads as rewritten:

5 **"§ 143-23. All maintenance funds for itemized purposes; transfers between objects**
6 **or line items.**

7 (a) All appropriations now or hereafter made for the maintenance of the various
8 departments, institutions and other spending agencies of the State, are for the (i) purposes
9 or programs and (ii) objects or line items enumerated in the itemized requirements of
10 such departments, institutions and other spending agencies submitted to the General
11 Assembly by the Director of the Budget and the Advisory Budget Commission, as
12 amended by the General Assembly. The function of the Advisory Budget Commission
13 under this subsection applies only if the Director of the Budget consults with the
14 Commission in preparation of the budget.

15 (a1) ~~No transfers may be made between objects or line items in the budget of any~~
16 ~~department, institution, or other spending agency; however, with the approval of the~~
17 ~~Director of the Budget, a department, institution, or other spending agency may spend~~
18 ~~more than was appropriated for an object or line item if the overexpenditure is:~~

- 19 (1) ~~In a purpose or program for which funds were appropriated for that~~
20 ~~fiscal period and the total amount spent for the purpose or program is no~~
21 ~~more than was appropriated for the purpose or program for the fiscal~~
22 ~~period;~~
23 (2) ~~Required to continue a purpose or program because of unforeseen~~
24 ~~events, so long as the scope of the purpose or program is not increased;~~
25 (3) ~~Required by a court, Industrial Commission, or administrative hearing~~
26 ~~officer's order or award or to match unanticipated federal funds;~~
27 (4) ~~Required to respond to an unanticipated disaster such as a fire,~~
28 ~~hurricane, or tornado; or~~
29 (5) ~~Required to call out the National Guard.~~

30 ~~The Director of the Budget shall report on a quarterly basis to the Joint Legislative~~
31 ~~Commission on Governmental Operations, the Fiscal Research Division of the~~
32 ~~Legislative Services Office, and the State Auditor the reason if the amount expended for~~
33 ~~a purpose or program is more than the amount appropriated for it from all sources. If the~~
34 ~~overexpenditure was authorized under subdivision (2) of this subsection, the Director of~~
35 ~~the Budget shall identify in the report the unforeseen event that required the~~
36 ~~overexpenditure.~~

37 Notwithstanding the provisions of subsection (a) of this section, a department,
38 institution, or other spending agency may, with the approval of the Director of the
39 Budget, spend more than was appropriated for:

- 40 (1) An object or line item within a purpose or program so long as the total
41 amount expended for the purpose or program is no more than was
42 appropriated for the purpose or program for the fiscal period;

1 (2) A purpose or program, without the approval of the Budget Adjustment
2 and Allocation Commission, if the overexpenditure of the purpose or
3 program is:

4 a. Required by a court, Industrial Commission, or administrative
5 hearing officer's order;

6 b. Required to respond to an unanticipated disaster such as a fire,
7 hurricane, or tornado; or

8 c. Required to call out the National Guard.

9 The Director of the Budget shall report on a monthly basis to the Budget
10 Adjustment and Allocation Commission on any overexpenditures under
11 this subdivision; or

12 (3) A purpose or program, with the approval of the Budget Adjustment and
13 Allocation Commission in accordance with G.S. 143-4.2, for any other
14 reason.

15 (a2) Funds appropriated for salaries and wages are also subject to the limitation that
16 they may only be used for:

17 (1) Salaries and wages or for premium pay, overtime pay, longevity,
18 unemployment compensation, workers' compensation, temporary
19 wages, moving expenses of employees, payment of accumulated annual
20 leave, certain awards to employees, tort claims, and employer's social
21 security, retirement, and hospitalization payments;

22 (2) Contracted personal services if (i) the contract is for temporary services
23 or special project services, (ii) the term of the contract does not extend
24 beyond the fiscal year, (iii) the contract does not impose obligations on
25 the State after the end of the fiscal year; and (iv) the total of all
26 overexpenditures for contracted personal services approved in a
27 program for a fiscal year does not exceed the greater of five hundred
28 thousand dollars (\$500,000) or ten percent (10%) of the lapsed salary
29 funds in the program for the fiscal year; and

30 (3) Uses for which overexpenditures are permitted by ~~subdivisions (3), (4),~~
31 ~~and (5) subdivision (2)~~ of subsection (a1) of this section but the Director
32 of the Budget shall include such use and the reason for it in his ~~quarterly~~
33 ~~report to the Joint Legislative Commission on Governmental Operations, the~~
34 ~~Fiscal Research Division of the Legislative Services Office, and the State~~
35 ~~Auditor.~~ monthly report to the Budget Adjustment and Allocation
36 Commission.

37 Lapsed salary funds that become available from vacant positions are also subject to
38 the limitation that they may not be used for new permanent employee positions or to raise
39 the salary of existing employees.

40 ~~(a3) The requirements in this section that the Director of the Budget report to the~~
41 ~~Joint Legislative Commission on Governmental Operations and the State Auditor shall~~
42 ~~not apply to expenditures of receipts by entities that are wholly receipt supported, except~~
43 ~~for entities supported by the Wildlife Resources Fund.~~

1 ~~(a4) The State Auditor shall review the report received from the Director of the~~
2 ~~Budget to ensure that the transfer complied with the intent and the provisions of this~~
3 ~~Article and shall report the Auditor's findings to the Joint Legislative Commission on~~
4 ~~Governmental Operations and to the Fiscal Research Division.~~

5 (b) Repealed by Session Laws 1985, c. 290, s. 8.

6 (c) Transfers or changes as between objects or line items in the budget of the
7 Senate may be made by the President Pro Tempore of the Senate.

8 (d) Transfers or changes as between objects or line items in the budget of the
9 House of Representatives may be made by the Speaker of the House of Representatives.

10 (e) Transfers or changes as between objects or line items in the budget of the
11 General Assembly other than of the Senate and House of Representatives may be made
12 jointly by the President Pro Tempore of the Senate and the Speaker of the House of
13 Representatives.

14 (f) As used in this section:

15 (1) 'Object or line item' means a budgeted expenditure or receipt in the
16 budget enacted by the General Assembly that is designated by (i) a
17 thirteen-digit code in the 1000-object code series or (ii) an eleven-digit
18 code in all other object code series, in accordance with the Budget Code
19 Structure and the State Accounting System Uniform Chart of Accounts
20 set out in the Administrative Policies and Procedures Manual of the
21 Office of the State Controller.

22 (2) 'Purpose or program' means a group of objects or line items for support
23 of a specific activity outlined in the budget adopted by the General
24 Assembly that is designated by a nine-digit fund code in accordance
25 with the Budget Code Structure and the State Accounting System
26 Uniform Chart of Accounts set out in the Administrative Policies and
27 Procedures Manual of the Office of the State Controller."

28 Sec. 7. G.S. 143-25 reads as rewritten:

29 **"§ 143-25. Maintenance appropriations dependent upon adequacy of revenues to**
30 **support them.**

31 All maintenance appropriations now or hereafter made are hereby declared to be
32 maximum, conditional and proportionate appropriations, the purpose being to make the
33 appropriations payable in full in the amounts named herein if necessary and then only in
34 the event the aggregate revenues collected and available during each fiscal year of the
35 biennium for which such appropriations are made, are sufficient to pay all of the
36 appropriations in full; otherwise, the said appropriations shall be deemed to be payable in
37 such proportion as the total sum of all appropriations bears to the total amount of revenue
38 available in each of said fiscal years. The Director of the Budget is hereby given full
39 power and authority to examine and survey the progress of the collection of the revenue
40 out of which such appropriations are to be made, and to declare and determine the
41 amounts that can be, during each quarter of each of the fiscal years of the biennium
42 properly allocated to each respective appropriation. In making such examination and
43 survey, he shall receive estimates of the prospective collection of revenues from the

1 Secretary of Revenue and every other revenue collecting agency of the State. The
2 Director of the Budget may reduce all of said appropriations pro rata when necessary to
3 prevent an overdraft or deficit to the fiscal period for which such appropriations are
4 made. The Governor may also reduce all of said appropriations pursuant to Article III,
5 Section 5(3) of the Constitution with approval of the Budget Adjustment and Allocation
6 Commission under G.S. 143-4.2 if approval is required by that section. The purpose and
7 policy of this Article are to provide and insure that there shall be no overdraft or deficit in
8 the general fund of the State at the end of the fiscal period, growing out of appropriations
9 for maintenance and the Director of the Budget is directed and required to so administer
10 this Article as to prevent any such overdraft or deficit. Prior to taking any action under
11 this section to reduce appropriations pro rata, the Governor may consult with the
12 Advisory Budget Commission."

13 Sec. 8. G.S. 143-27 reads as rewritten:

14 **"§ 143-27. Appropriations to educational, charitable and correctional institutions**
15 **are in addition to receipts by them.**

16 All appropriations now or hereafter made to the educational institutions, and to the
17 charitable and correctional institutions, and to such other departments and agencies of the
18 State as receive moneys available for expenditure by them are declared to be in addition
19 to such receipts of said institutions, departments or agencies, and are to be available as
20 and to the extent that such receipts are insufficient to meet the costs anticipated in the
21 budget authorized by the General Assembly, of maintenance of such institutions,
22 departments, and agencies; Provided, however, that if the receipts, other than gifts and
23 grants that are unanticipated and are for a specific purpose only, collected in a fiscal year
24 by an institution, department, or agency exceed the receipts certified for it in General
25 Fund Codes or Highway Fund Codes, the Director of the Budget shall decrease the
26 amount he allots to that institution, department, or agency from appropriations from that
27 Fund by the amount of the excess, unless use of the excess for the overexpenditure is
28 approved under G.S. 143-4.2. ~~the Director of the Budget finds that the appropriations from~~
29 ~~that Fund are necessary to maintain the function that generated the receipts at the level~~
30 ~~anticipated in the certified Budget Codes for that Fund.~~—Notwithstanding the foregoing
31 provisions of this section, receipts within The University of North Carolina realized in
32 excess of budgeted levels shall be available, up to a maximum of ten percent (10%)
33 above budgeted levels, for each Budget Code, in addition to appropriations, to support the
34 operations generating such receipts, as approved by the Director of the Budget.

35 ~~The Office of State Budget and Management shall report to the Joint Legislative~~
36 ~~Commission on Governmental Operations and to the Fiscal Research Division of the~~
37 ~~Legislative Services Office within 30 days after the end of each quarter on expenditures~~
38 ~~of receipts in excess of the amounts certified in General Fund Codes or Highway Fund~~
39 ~~Codes that did not result in a corresponding reduced allotment from appropriations from~~
40 ~~that Fund."~~

41 Sec. 9. G.S. 116-30.2 reads as rewritten:

42 **"§ 116-30.2. Appropriations to special responsibility constituent institutions.**

1 All General Fund appropriations made by the General Assembly for continuing
2 operations of a special responsibility constituent institution of The University of North
3 Carolina shall be made in the form of a single sum to each budget code of the institution
4 for each year of the fiscal period for which the appropriations are being made.
5 Notwithstanding G.S. 143-4.2, 143-23(a1), ~~G.S. 143-23(a2)~~, and ~~G.S. 143-23(a3)~~, each
6 special responsibility constituent institution may expend the General Fund monies so
7 appropriated to it in the manner deemed by the Chancellor to be calculated to maintain
8 and advance the programs and services of the institutions, consistent with the directives
9 and policies of the Board of Governors. The preparation, presentation, and review of
10 General Fund budget requests of special responsibility constituent institutions shall be
11 conducted in the same manner as are requests of other constituent institutions. The
12 quarterly allotment procedure established pursuant to G.S. 143-17 shall apply to the
13 General Fund appropriations made for the current operations of each special
14 responsibility constituent institution. All General Fund monies so appropriated to each
15 special responsibility constituent institution shall be recorded, reported, and audited in the
16 same manner as are General Fund appropriations to other constituent institutions."

17 Sec. 10. G.S. 143-16.3 reads as rewritten:

18 **"§ 143-16.3. No expenditures for purposes for which the General Assembly has**
19 **considered but not enacted an appropriation.**

20 Notwithstanding any other provision of law, no funds from any source, except for
21 gifts, grants, and funds allocated from the Contingency and Emergency Fund ~~by the~~
22 ~~Council of State~~, in accordance with G.S. 143-12(b), may be expended for any purpose,
23 position, or other expenditure for which the General Assembly has considered but not
24 enacted an appropriation of funds for the current fiscal period. For the purpose of this
25 section, the General Assembly has considered a purpose, position, or other expenditure
26 when that purpose is included in a ~~bill~~ bill, amendment, or petition ~~or~~ and when any
27 committee of the Senate or the House of Representatives deliberates on that purpose."

28 Sec. 11. G.S. 116-30.1 reads as rewritten:

29 **"§ 116-30.1. Special responsibility constituent institutions.**

30 The Board of Governors of The University of North Carolina, acting on
31 recommendation made by the President of The University of North Carolina after
32 consultation by him with the State Auditor, may designate one or more constituent
33 institutions of The University as special responsibility constituent institutions. That
34 designation shall be based on an express finding by the Board of Governors that each
35 institution to be so designated has the management staff and internal financial controls
36 that will enable it to administer competently and responsibly all additional management
37 authority and discretion to be delegated to it. The Board of Governors, on
38 recommendation of the President, shall adopt rules prescribing management staffing
39 standards and internal financial controls and safeguards, including the lack of any
40 significant exceptions or audit findings in the annual financial audit by the State Auditor's
41 Office, that must be met by a constituent institution before it may be designated a special
42 responsibility constituent institution and must be maintained in order for it to retain that
43 designation. These rules shall not be designed to prohibit participation by a constituent

1 institution because of its size. These rules shall establish procedures for the President and
2 his staff to review the annual financial audit reports or any other special or performance
3 audit reports issued by the State Auditor's Office for each special responsibility
4 constituent institution. The President shall take immediate action regarding reported
5 weaknesses in the internal control structure, deficiencies in the accounting records, and
6 noncompliance with rules and regulations. In any instance where such audit exceptions
7 are identified, the President shall notify the Chancellor and each member of the Board of
8 Trustees of the particular special responsibility constituent institution that such
9 exceptions must be resolved to the satisfaction of the State Auditor and the President of
10 The University within a three-month period commencing with the date of receipt of the
11 published financial audit report. If the exceptions are not satisfactorily resolved within a
12 three-month period, the President of The University shall recommend to the Board of
13 Governors at its next meeting that the designation of the particular institution as a special
14 responsibility constituent institution be terminated until such time as the exceptions are
15 resolved to the satisfaction of the State Auditor and the President of The University of
16 North Carolina. The action of the Board of Governors terminating the designation shall
17 state the reasons for the termination, and a copy shall be sent to each member of the
18 Board of Trustees of that particular institution. However, once the designation as a
19 special responsibility constituent institution has been withdrawn by the Board of
20 Governors, reinstatement may not be effective until the beginning of the following fiscal
21 year at the earliest. Any actions taken by the Board of Governors with respect to
22 withdrawal or reinstatement of an institution's status as a special responsibility
23 constituent institution shall be reported immediately to the Joint Legislative Education
24 Oversight Committee.

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

31 Sec. 12. Sections 1 through 11 of this act become effective only if the
32 constitutional amendment proposed by Section 1.1 of Chapter 5 of the Session Laws of
33 1995 is approved as provided by Sections 3 and 4 of Chapter 5 of the Session Laws of
34 1995, and if so approved, Sections 1 through 11 of this act become effective upon
35 certification of the results of that election.