

Changes Affecting Higher Education

By Robert P. Joyce

As it has in recent years, money remained tight in the 2005 General Assembly, and overall appropriations for The University of North Carolina (UNC) and the Community College system rose only slightly. This was not a year of major legislative initiatives with regard to higher education.

Appropriations and Salaries

Unc current operations

The Current Operations and Capital Improvements Appropriations Act of 2005 [S.L. 2005-276 (S 622)]¹ (the budget act) appropriates \$2,086,052,890 for fiscal 2005–2006 and \$2,120,397,081 for fiscal 2006–2007 to The University of North Carolina Board of Governors for the operation of all UNC campuses and hospitals. In the budget act of 2003, the comparable figures for the two years of the 2003–2005 biennium were \$1,792,141,661 and \$1,822,426,657.

Community colleges current operations

The budget act appropriates to The Community Colleges System Office \$787,685,943 for fiscal 2005–2006 and \$767,295,886 for fiscal 2006–2007. In the budget act of 2003, the comparable figures for the two years of the 2003–2005 biennium were \$660,927,719 and \$660,199,222.

Capital improvements

In 2000 the voters of the state approved the issuance of bonds in the amount of \$2.5 billion for UNC and \$600 million for the Community College system to fund an extensive list of capital improvement projects. Since then, the General Assembly has made few direct appropriations for capital improvements for UNC or the community colleges; in some years, no funds at all have been appropriated.

In 2005 the budget act's total statewide appropriation for capital improvements—for all government, not just higher education—was only \$54,960,000. That total includes nothing for the Community College system and \$16,550,000 for UNC. The largest UNC appropriation, \$8.7 million, is for an engineering complex at North Carolina State University. The budget act also modifies a number of the capital projects funded by the proceeds of the 2000 bond referendum and, in Section 9.26, authorizes the expenditure of \$30 million for a new family medicine center at the Brody School of Medicine at East Carolina University. The center is to be financed with funds available from Medicare reimbursements and other specified funds but not General Fund appropriations.

In addition, S.L. 2005-324 (H 1775) authorizes a number of capital improvement projects at UNC constituent institutions; these are to be funded by receipts, self-liquidating indebtedness, or other sources but not General Assembly appropriations. The largest of these projects are infrastructure improvements at UNC Chapel Hill (just over \$100 million), a student housing project at North Carolina Central University (\$30 million), and the aforementioned family medicine center at East Carolina University (\$30 million).

Salaries

All community college employees paid from state funds received, under the budget act, salary increases of \$850 or 2 percent, whichever is greater. The same is true for UNC employees who are subject to the State Personnel Act. UNC employees not subject to the State Personnel Act who have an annual salary of \$42,500 or less received an \$850 increase. All other UNC employees² together received an average increase of 2 percent, with the amount awarded to each individual varying according to rules adopted by the Board of Governors. In addition, most UNC and

¹ The author is a faculty member of the School of Government. He specializes in school personnel law, higher education law, and elections law.

1. As amended by S.L. 2005-345 (H 320, the general technical amendments bill).

2. Except teachers at the School of Science and Mathematics, whose raise was to average 2.44 percent.

community college employees received a special credit of five additional days of annual leave.

The budget act also sets a 2005–2006 minimum salary schedule for nine-month, full-time, curriculum community college faculty with the following qualifications: vocational diploma or less, \$29,932; associate’s degree, \$30,373; bachelor’s degree, \$32,283; master’s degree or education specialist, \$33,978; doctoral degree, \$36,421. The act also permits community colleges to use portions of state-appropriated faculty salary funds for purposes other than salary that directly affect student services; the amount used for these purposes depends on a sliding scale related to how nearly the college’s average faculty salary matches the national average. The closer to the national average, the more salary funds the college may transfer to other purposes.

Use of funds

A number of provisions in the budget act concern the use of funds by the Community College system, UNC, or individual institutions.

Section 8.2 of the budget act permits the Community College system to carry forward without reversion to the General Fund up to \$15 million of operating funds and to reallocate them to the system’s Equipment Reserve Fund. Sections 8.1 and 8.4 (amending G.S. 115D-5.1) provide, respectively, that funds appropriated for the system’s College Information System Project and funds available to the New and Expanding Industry Training Program are not to revert. Also, under Section 8.10, certain community colleges may retain without reversion all their General Fund current operations credit balances. To qualify, the community college must be located in a county that is designated as Tier 1 or Tier 2 under G.S. 105-129.3, have an unemployment rate of at least 7 percent, and be designated a low-wealth county with a wealth calculation of 80 percent or less of the state average.

Section 9.21 of the budget act amends the G.S. 116-41.15 provisions for the Distinguished Professors Endowment Trust Fund. That statute sets out a formula governing the use of state funds to match private donations raised to endow a teaching chair. The amendment adds flexibility to the formula while maintaining the basic ratio of private-to-state funds.

University and Community College Governance

Community colleges train lateral-entry teachers

There are two primary ways for individuals to become public school teachers in North Carolina. First, the individual may complete a regular teacher-education program at a four-year college. Or, second, the individual may come into teaching directly from other work through what is known

as “lateral entry.” An individual who enters the teaching profession through lateral entry must complete certain coursework within prescribed time limits in order to attain a teaching license. S.L. 2005-198 (H 563) amends G.S. 115C-296 and G.S. 115D-5 to authorize community colleges to offer the required courses. To enroll in a community college coursework program, the lateral-entry teacher must have completed his or her bachelor’s degree at least five years before.

Scholarship students at in-state tuition rate

Section 9.27 of the budget act adds new G.S. 116-143.6 authorizing the board of trustees of each UNC constituent institution to elect to treat as in-state residents for all purposes all out-of-state undergraduate students who hold full scholarships provided by entities recognized by the institution. The constituent institution choosing to do so must (1) administer the election in a way that has no fiscal impact and (2) maintain at least the current number of North Carolina residents admitted to the institution.

Umstead act amendments

G.S. 66-58, commonly known as the Umstead Act, prohibits agencies of state government, including UNC and the community colleges, from operating enterprises that compete with private businesses. The statute contains a number of exceptions. For instance, it permits the sale of meals and articles incident to classroom work at college facilities. S.L. 2005-397 (H 1539) amends the statute to add additional exceptions, exempting UNC with respect to (1) activities that further the mission of UNC; (2) activities that serve students or employees of UNC or members of their immediate families; (3) activities that provide university-related services or that market university-related merchandise to alumni and their families; and (4) activities that enable people to utilize the university’s facilities, equipment, or expertise. The statute directs the Board of Governors to establish a panel to determine whether particular activities are authorized under exceptions (2), (3), and (4) and permits UNC and its employees to rely on a finding by the panel that such an activity is authorized until a contrary determination is made by a court or the attorney general. The panel is to consist of two members familiar with the interests of the business community appointed by the governor; two such members appointed by the speaker of the House; two such members appointed by the president pro tempore of the Senate; and three members who are not UNC employees and are appointed by the Board of Governors.

In addition, three other statutes provide new Umstead Act exceptions. (1) S.L. 2005-247 (S 565) creates an exception allowing a private business enterprise that has loaned or donated instructional equipment to a community college

to use college facilities to demonstrate that equipment to customers. (2) S.L. 2005-20 (H 752) creates an exception for sales of dairy products by North Carolina State University. (3) S.L. 2005-63 (S 510) creates an exception for economic development activities at the East Campus of Western Piedmont Community College.

Foundations to support unc institutions

The budget act adds new G.S. 116-30.20 directing the UNC Board of Governors to encourage the establishment of private, nonprofit foundations to support UNC constituent institutions. The new provision permits the UNC president and the chancellors of the constituent institutions to assign employees to assist with the establishment and operation of the foundations and to provide office space, supplies, and equipment. The foundations must be audited by UNC.

Addressing the teacher shortage

The budget act contains several provisions designed to address the shortage of teachers in North Carolina's public schools.

The first directs the UNC Office of the President to obtain from each UNC institution its plans for maintaining its current enrollment in teacher-education programs and measures for achieving growth—including targeted admissions; faculty increases; and enhanced student support, advising, and recruiting. The Office of the President is to assemble those plans and report them to the Office of State Budget and Management and the Joint Legislative Education Oversight Committee.

The second provision directs the UNC Board of Governors and the State Board of Community Colleges to strongly encourage UNC constituent institutions and community colleges not presently offering certain specified UNC/community college cooperative programs in teacher education to design and enter into partnerships for such programs.

The third provision directs that funds be used to create new positions within the University of North Carolina–North Carolina Community College System Joint Initiative for Teacher Education and Recruitment. The new employees are to assist the efforts of the Regional Alternative Licensure Centers of the Department of Public Instruction to increase the number of licensed teachers in the public schools. The budget act directs the Joint Initiative to report annually on students moving from community colleges to UNC institutions to work toward teacher licensure and related education.

See also “Community Colleges Train Lateral-Entry Teachers,” above.

New enrollment growth funding model

Each year the General Assembly must provide additional funds to The University of North Carolina to cover the expenses associated with enrollment growth. The budget act directs the Office of State Budget and Management, along with UNC and the Fiscal Research Division of the General Assembly, to develop an alternative model and to use both the current and the new models side-by-side in developing the request for enrollment-growth funding in 2007.

Community college education program audit

G.S. 115D-5(m) has directed the State Board of Community Colleges to require auditors of community college programs to use a statistically valid sample size in performing program audits. The budget act amends that section to retain the requirement but also to specify the purpose of the annual audit: to ensure that college programs and related fiscal operations comply with state law, state regulations, State Board policies, and System Office guidance. The new provision requires audit findings to be forwarded to the college president, the board of trustees, the State Board, and the state auditor. It further directs the State Board to assess a 25-percent fiscal penalty when audit exceptions result from any cause other than processing errors.

Community college multicampus funds

The budget act adds a new requirement that multicampus community colleges and community colleges with off-campus centers must report annually to the System Office on all expenditures—by line item—of funds used to support the multiple campuses and the off-campus centers. The act specifies that funds appropriated to the System Office for multicampus colleges or off-campus centers are to be used only for the administration of the multicampus college or off-campus center for which the funds were allotted and may not be transferred to any other campus or center.

Massage and bodywork therapy program approval

G.S. 90-631 directs the North Carolina Board of Massage and Bodywork Therapy to set standards for schools operating in the field and to approve schools that meet the standards. The budget act amends the statute to exempt programs operated by accredited community colleges and by other accredited degree-granting colleges that are licensed by the Community College system or the UNC Board of Governors.

Community College Customized Industry Training Program

The budget act, in Section 8.4, adds new G.S. 115D-5.1(e) creating the North Carolina Community College system Customized Industry Training Program to offer worker

training assistance to businesses that are making appreciable capital investments and deploying new technologies. Funds from the New and Expanding Industry Training Program may be used to operate this new program.

Employers' mandatory training and reemployment contribution

G.S. 96-6.1—enacted in 1999—levies a mandatory employer contribution to provide funds for worker training (in addition to employer unemployment insurance contributions). The statute, which mandates that 80 percent of the funds be allocated to the Community College system, was scheduled to expire in 2006. The budget act adds new G.S. 96-6.1(c) extending the sunset to 2011.

Horace Williams Airport

The budget act, in Section 9.15, directs UNC Chapel Hill to continue to operate the Horace Williams Airport and to continue air transportation support for the Area Health Education Centers (AHEC) program and the public until thirty days after adjournment of the General Assembly in 2006. The Legislative Research Commission is directed to study the means of continuing the AHEC program if the airport becomes unavailable.

Distance education study

The budget act, in Section 9.7, directs the Office of State Budget and Management to study the distance education programs at UNC institutions, identify duplications, assess the cost of developing online courses, and determine which campuses are best suited to offer particular courses.

Enrollment of students under sixteen at community colleges

G.S. 115D-1.1 (which expired September 1, 2004) permitted the enrollment of a student under sixteen years of age in a community college if the president of the college finds the student to be intellectually gifted and if the enrollment is approved by certain public school officials. S.L. 2005-77 (H 583) amends the statute to add to the list of officials authorized to approve the enrollment the local board of education of the school administrative unit in which the student is domiciled (whether enrolled there or not) and the administrator of a college or university where the student is enrolled. It also extends the expiration date of the statute to September 1, 2008.

Community college statement of purpose

G.S. 115D-1 contains the statement of purpose of the North Carolina Community College system. S.L. 2005-77 (H 583) amends the statute to add a statement that the System Office is designated as the primary lead agency for delivering workforce development training, adult literacy training, and adult education programs in the state.

Center for Applied Textile Technology

How many community colleges are there in North Carolina's system? For some purposes, the answer has been fifty-eight and for others it has been fifty-nine, depending on how one counted the Center for Applied Textile Technology. The question is now simplified. S.L. 2005-103 (S 988) deletes the statutes that have governed the center and enacts new statutes constituting it a unit of Gaston College, one of the fifty-eight community colleges. The old board of trustees of the center is dissolved and replaced with an advisory board composed of the president of Gaston College, four members appointed by the N.C. Manufacturers Association, three members appointed by the State Board of Community Colleges, two members appointed by the board of the center's foundation, two members appointed by the board of trustees of Gaston College, one member appointed by the dean of the College of Textiles of North Carolina State University, and the director of the Hosiery Technology Center at Catawba Valley Community College. A director of the center is to be chosen by the Gaston College president from nominees put forward by the advisory board.

No tuition for early college and middle college high school students

G.S. 115D-5(d) provides that tuition is to be waived for all high school students taking courses at community colleges. S.L. 2005-193 (S 566) makes it clear that this waiver applies to students in early college and middle college high school programs.

Unc pembroke designation

S.L. 2005-153 (H 371) designates The University of North Carolina at Pembroke as "North Carolina's Historically American Indian University."

Funds of the University of North Carolina Hospitals at Chapel Hill

S.L. 2005-417 (S 443) adds new G.S. 116-37.2 specifying that the Board of Directors of the University of North Carolina Health Care System is responsible for the custody and management of the funds of the University of North Carolina Hospitals at Chapel Hill. It provides that the board is to develop uniform policies and procedures for administering those funds, which are to be available for general institutional purposes and to supplement state appropriations, so enabling the hospitals to improve and increase their functions, enlarge their service areas, and become more useful to a greater number of people.

A&T State University parking

S.L. 2005-165 (H 1552) grants ordinance-making authority to the Board of Trustees of North Carolina Agricultural and Technical State University with respect to parking on designated streets in Greensboro.

Private College Police

S.L. 2005-231 (S 527) adds a new G.S. Chapter 74G (“Campus Police Act”), creating the Campus Police Program and governing the provision of police protection by police forces of private colleges.³

Purchasing and Contracting⁴

University contracts

Several acts this session provide the University system additional contracting flexibility. S.L. 2005-125 (H 678) amends G.S. 143-53 to add a new subsection (d) allowing The University of North Carolina to solicit bids for service contracts with terms of ten years or less, including extensions and renewals, without prior approval of the State Purchasing Officer. This act became effective June 29, 2005. S.L. 2005-300 (H 1464) makes permanent an increase in autonomy for University construction projects costing \$2 million or less. That law also removed the sunset provision in a 2001 law giving the University autonomy and flexibility in managing projects. S.L. 2005-300 requires the Board of Governors annually to report to the State Building Commission on projects undertaken under the flexibility provisions.

A provision in the Current Operations and Capital Improvements Appropriations Act of 2005 [S.L. 2005-276 (S 622); section 9.8] authorizes the University and its constituent institutions to participate in the aggregation of purchasing for computer hardware and software licenses and multiyear agreements as administered by the Office of Information Technology Services. The provision directs the Office of State Budget and Management to study whether further aggregation is cost justified.

Community colleges

S.L. 2005-370 (H 576) gives community colleges flexibility in awarding open-ended contracts (that is, contracts that are not limited to a single project) for architectural, engineering, or surveying services estimated to cost less than \$300,000. (Similar flexibility has previously been provided to The University of North Carolina.) As amended by this act, G.S. 143-64.34 exempts community college projects below the \$300,000 threshold from State Building Commis-

sion approval if they are part of an open-ended contract, are publicly announced, and comply with State Building Commission procedures. This change became effective October 1, 2005.

Student Relationships and Financial Aid

Lottery scholarships

After many years of debate, the General Assembly in 2005 enacted a North Carolina State Lottery. S.L. 2005-344 (H 1023), as amended by Section 31.1 of the budget act, directs, through new G.S. 18C-164, that a portion of the net revenue in the Education Lottery Fund is to be distributed to the State Education Assistance Authority to fund college and university scholarships.

The lottery act also adds new Article 35A to G.S. Chapter 115C, specifying how the lottery-funded scholarships will work. Under current federal rules for determining eligibility for higher education financial aid, aid officials use financial information provided by the family to calculate each family’s “expected financial contribution”—that is, the amount the family is able to pay annually toward the student’s higher education. Under new G.S. 115C-499.2, students who are North Carolina residents will be eligible for lottery-funded scholarships if their expected annual family contribution does not exceed \$5,000. The maximum scholarship amount is \$4,000 a year, and no student may receive a scholarship for more than four full academic years.

Relations with the military

G.S. 116-143.3 provides that active duty members of the armed services and their dependent relatives receive in-state tuition at UNC institutions, even if they do not qualify as North Carolina residents for tuition purposes. S.L. 2005-345 amends the statute to allow active duty members who are enrolled at the time they are honorably discharged from the service to remain eligible for in-state tuition as long as they establish North Carolina residency within thirty days of discharge and remain continuously enrolled in the original program. The same is true for dependent relatives. S.L. 2005-445 (S 1117) extends this same benefit to active duty members (or dependent relatives) who retire from the service.

S.L. 2005-445 also amends G.S. 116-235(b)(1) to provide that a student whose parent is an active duty member of the armed services residing in North Carolina incident to military service is eligible for admission to the School of Science and Mathematics, even if the student is not a North Carolina resident.

S.L. 2005-444 amends portions of Article 15 (“North Carolina National Guard Tuition Assistance Act of 1975”) of G.S. Chapter 127A. That article has provided an

3. For a fuller discussion of this change, see Joan G. Brannon and James C. Drennan, “Courts and Civil Procedure,” in *North Carolina Legislation 2005* (Chapel Hill: School of Government, University of North Carolina at Chapel Hill, 2006).

4. This section was written by Frayda S. Bluestein and is excerpted from “Public Purchasing and Contracting” in *North Carolina Legislation 2005*, Chapter 19 (Chapel Hill: School of Government, University of North Carolina, 2006).

educational assistance grant of up to \$2,000 per year for four years for qualifying members of the National Guard to attend university, college, or business or trade school. The amendments raise the maximum grant from \$2,000 to the highest amount charged by a public educational institution in the state. The amendments also provide that the tuition portion of a grant is to be paid directly to the educational institution but that any portion for books and materials is to be paid to the Guard member.

In-state tuition in reciprocal graduate programs

The budget act adds new G.S. 116-43.10 authorizing the UNC Board of Governors to participate in the Southern Regional Education Board Common Market for graduate studies. Under this program, North Carolina residents may attend certain graduate programs at universities operated by other participating states at in-state tuition rates, and students from those states may attend certain UNC graduate programs at in-state rates. The program applies to programs at public universities that are not offered at the universities of the other participating states. The new statute directs the Board of Governors to select for participation in the market those UNC graduate programs likely to be unique or not commonly available in other member states.

Employee tuition waivers

The budget act adds new G.S. 116-143.1 permitting full-time employees of UNC (and their spouses) who are legal residents of North Carolina to qualify for in-state tuition even if they have not yet lived in the state for twelve consecutive months.

The budget act, in Section 9.25, also directs the Board of Governors and the State Board of Community Colleges to study the feasibility of a tuition-waiver exchange program. Under such a program, full-time UNC employees would be allowed to take a specified number of courses at a community college without paying tuition; full-time community college students could, similarly, take a specified number of courses at a UNC constituent institution.

Tuition waivers for wards of the state

The budget act adds new G.S. 115B-2(a) to permit a North Carolina resident between the ages of 17 and 23 to attend UNC institutions tuition free if he or she is a ward of the state or was a ward of the state at the age of 18.

Escheat Fund financial aid appropriations

Section 9.6 of the budget act appropriates from the Escheat Fund just under \$68 million for the UNC Board of Governors and just over \$15 million for the State Board of Community Colleges for need-based student financial aid;

the aid is to be allocated by the State Education Assistance Authority (SEAA).

Scholarship loans for prospective teachers

The budget act adds new G.S. 116-209.38 establishing the Future Teachers of North Carolina Scholarship Loan Funds. It is to provide one hundred scholarships of \$6,500 per year for North Carolina students in their junior and senior years of college enrolled in accredited teacher preparation programs at North Carolina colleges. The student must agree to become certified in math, science, special education, or English as a second language and to teach full-time in that subject area in a North Carolina public school for three years within five years of graduation. The student must maintain a B average. A student who fails to meet these requirements must repay the loan with interest.

In addition, the budget act amends G.S. 115C-468, -469, -470, -471 and -472.1, moving the amended provisions to G.S. Chapter 116, thus transferring the administration of the Scholarship Loan Fund for Prospective Teachers and the rule-making authority for the loans from the Department of Public Instruction to the SEAA.

Physical education—coaching scholarship loan

The budget act adds new G.S. 116-209.36 establishing the Physical Education–Coaching Scholarship Loan Funds. The program is to provide twenty-five scholarships of \$4,000 per year for North Carolina students pursuing degrees at North Carolina colleges to become public school teachers and coaches or assistant coaches. The student must agree to accept employment as a coach or assistant in an elementary or secondary school in a rural or other need-based county. Each year a recipient is so employed as a teacher after receiving a bachelor's degree cancels the obligation to repay one year of the loan.

Nursing scholars program

The budget act adds new G.S. 90-171.61(B1) governing loans under the Nursing Scholars Program. It provides that if a recipient of a scholarship loan is enrolled, or accepted for enrollment, in a baccalaureate nursing program but is unable to pursue the nursing course for a semester due to limited faculty resources at the institution, he or she will continue to receive the scholarship loan for that one semester only.

In addition, S.L. 2005-40 (H 780) amends G.S. 90-171.65 to move administration of the need-based nursing scholarship fund to the SEAA. It has been jointly administered by the State Board of Community Colleges, the UNC Board of Governors, and the SEAA. As amended, the statute provides that scholarship loan funds are to be distributed to students enrolled in UNC constituent institutions,

community colleges, and private colleges in amounts proportionate to the amounts awarded to each such group of students in the preceding year.

UNC tuition for School of Science and Mathematics graduates

G.S. 116-238.1 provides that North Carolina residents who graduate from the School of Science and Mathematics may

receive a grant to cover the cost of tuition at any UNC constituent institution. The statute formerly limited the grant to no more than the cost of tuition at the institution. Section 9.14 of the budget act amends the statute to provide that the grant may not exceed the cost of attendance at the institution.