STATE OF NORTH CAROLINA

1971

Session Laws and Resolutions

PASSED BY THE

GENERAL ASSEMBLY

AT THE

REGULAR SESSION

HELD IN THE CITY OF RALEIGH

BEGINNING ON

WEDNESDAY, THE THIRTEENTH DAY OF JANUARY, A.D. 1971

PUBLISHED BY AUTHORITY
shall ascertain that the plea was freely, understandingly and voluntarily made, without undue influence, compulsion or duress, and without promise of leniency.

"(c) An indigent person who has been informed of his right to be represented by counsel at any out-of-court proceeding, may, either orally or in writing, waive the right to out-of-court representation by counsel."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th Day of October, 1971.

H. B. 1456

CHAPTER 1244

AN ACT TO CONSOLIDATE THE INSTITUTIONS OF HIGHER LEARNING IN NORTH CAROLINA.

The General Assembly of North Carolina enact:

Section 1. Effective July 1, 1972, G.S. 116-1 through 116-11, G.S. 116-12 through 116-18, G.S. 116-27, G.S. 116-34 through 116-37, G.S. 116-38 through 116-39, G.S. 116-41 through 116-44 and G.S. 116-44.1 through 116-46 are repealed and the following provisions are enacted:

"Article I.

The University of North Carolina.


§ 116-1. Purpose. — In order to foster the development of a well-planned and coordinated system of higher education, to improve the quality of education, to extend its benefits and to encourage an economical use of the State's resources, the University of North Carolina is hereby redefined in accordance with the provisions of this Article.

§ 116-2. Definitions. — As used in this Article, unless the context clearly indicates a contrary intent:

(1) 'Board' means the Board of Governors of the University of North Carolina.

(2) 'Board of trustees' means the board of trustees of a constituent institution.

(3) 'President' means the President of the University of North Carolina.

(4) 'Constituent institution' or 'institution' means one of the 16 public senior institutions, to wit, the University of North Carolina at Chapel Hill, North Carolina State University at Raleigh, the University of North Carolina at Greensboro, the University of North Carolina at Charlotte, the University of North Carolina at Asheville, the University of North Carolina at Wilmington, Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, North Carolina School of the Arts, Pembroke State University, Western Carolina University, and Winston-Salem State University.

(5) 'Chancellor' means the chancellor of a constituent institution.

"Part 2. Organization, Governance and Property of the University.

§ 116-3. Incorporation and corporate powers. — The Board of Trustees of the University of North Carolina is hereby reorganized, effective July 1, 1972, as the 'Board of Governors of the University of North Carolina.' The Board of Governors of the University of North Carolina shall be known and distinguished by the name of 'the University of North Carolina' and shall continue as a body politic and corporate and by that name shall have perpetual succession and a common seal. It shall be able and capable in law to take, demand, receive, and possess all moneys, goods, and chattels that shall be given for the use of the University, and to apply the same according to the will of the donors; and by gift, purchase, or devise to receive, possess, enjoy, and retain forever any and all real and personal estate and funds, of whatsoever kind, nature, or quality the same may be, in special trust and confidence that the same, or the profits thereof, shall be applied to and for the use and purpose of establishing and endowing the University, and shall have power to receive donations from any source whatsoever, to be exclusively devoted to the purpose of the maintenance of the University, or according to the terms of donation.

The corporation shall be able and capable in law to borrow, sell, grant, alien, or dispose of and convey and assure to the purchasers any and all such real and personal estate and funds as it may lawfully acquire through the condition of the grant to it or the will of the devisor does not forbid it; and shall be able and capable in law to sue and be sued in all courts whatsoever; and shall have power to open and receive subscriptions, and in general may do all such things as are usually done by bodies corporate and politic, or such as may be necessary for the promotion of learning and virtue.

§ 116-4. Constituent institutions of the University of North Carolina. — On July 1, 1972, the University of North Carolina shall be composed of the following institutions: the University of North Carolina at Chapel Hill, North Carolina State University at Raleigh, the University of North Carolina at Greensboro, the University of North Carolina at Charlotte, the University of North Carolina at Asheville, the University of North Carolina at Wilmington, Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, North Carolina School of the Arts, Pembroke State University, Western Carolina University and Winston-Salem State University.

§ 116-5. Initial membership of Board of Governors. — (a) Commencing July 1, 1972, and continuing for the terms hereinafter stated and until their successors are chosen, the Board of Governors shall consist of the following members:

(1) Three persons elected prior to January 1, 1972, by and from the membership of the Board of Trustees of East Carolina University and
two persons elected prior to January 1, 1972, by and from the membership of the Board of Trustees of each of the following institutions: Appalachian State University, North Carolina Agricultural and Technical State University, North Carolina Central University, and Western Carolina University.

2. One person elected prior to January 1, 1972, by and from the membership of the Board of Trustees of each of the following institutions: Elizabeth City State University, Fayetteville State University, North Carolina School of the Arts, Pembroke State University, and Winston-Salem State University.

3. Sixteen persons prior to January 1, 1972, by and from the membership of the Board of Trustees of the University of North Carolina.

4. Two persons elected prior to January 1, 1972, by the Board of Higher Education from its eight (8) members-at-large. These shall be non-voting members whose term shall expire on June 30, 1973.

5. Of the six persons elected by the Board of Trustees of the University of North Carolina, four shall serve a term ending on June 30, 1973, four shall serve a term ending on June 30, 1974, four shall serve a term ending on June 30, 1975, and four shall serve a term ending on June 30, 1976. On January 1, 1972, or as soon as practicable thereafter, those six persons shall by lot or other means acceptable to them determine which of them shall be assigned the terms ending in 1973, 1974, 1975, and 1976 respectively. Of the six persons elected by the boards of trustees of the institutions listed in G.S. 110-5(a)(1), above, three shall serve a term ending on June 30, 1973, three shall serve a term ending on June 30, 1975, three shall serve a term ending on June 30, 1977, and two shall serve a term ending on June 30, 1978. On January 1, 1972, or as soon as practicable thereafter, those eleven persons shall by lot or other means acceptable to them determine which of them shall be assigned the terms ending in 1973, 1974, 1975, 1976, and 1977 respectively. Of the five persons elected by the boards of trustees of the institutions listed in G.S. 110-5(a)(2), above, the member elected from the Board of Trustees of the North Carolina School of the Arts shall serve a term ending on June 30, 1973, and of the remaining members, one shall serve a term ending on June 30, 1975, one shall serve a term ending on June 30, 1977, and two shall serve a term ending on June 30, 1979. On January 1, 1972, or as soon as practicable thereafter, those four persons, excluding the member from the North Carolina School of the Arts, shall by lot or other means acceptable to them determine which of them shall be assigned the terms ending in 1975, 1977, and 1979 respectively.

6. Any vacancy occurring in the membership of the Board of Governors between July 1, 1972, and June 30, 1973, shall be filled by appointment of the Governor, and the person appointed shall serve for the remainder of the unexpired term.

7. The Governor shall serve ex officio as a member and as Chairman of the Board of Governors until December 31, 1972.

8. As the terms of members of the Board of Governors provided for in G.S. 116-5 expire, their successors shall be elected by the Senate and House of Representatives. Eight members shall be so elected at the regular legislative session in 1973 and every two years thereafter.

9. All terms shall commence on July 1 of odd-numbered years and all members shall serve for eight-year overlapping terms.

10. No member may be elected to more than two full terms in succession.

11. The Senate and House of Representatives, in electing members of the Board of Governors, shall select from a slate of nominees made in a joint session of the General Assembly. There shall be nominated from the floor at least twice the number of persons as there are vacancies to be filled. The Senate and the House of Representatives shall each elect one-half of the persons necessary to fill the vacancies, with the Senate to hold its election prior to the House of Representatives. In the event that an odd number of members are to be elected, the House of Representatives shall select the additional nominee. In 1973 and every four years thereafter, the Senate shall elect at least one woman and one member of a minority race and the House of Representatives shall elect at least one member of the political party to which the largest minority of the members of the General Assembly belong. In 1973 and every four years thereafter, the Senate shall elect at least one member of the political party to which the largest minority of the members of the General Assembly belong and the House of Representatives shall elect at least one woman and one member of a minority race.

12. Of the eight members elected every two years, at least one shall be a woman, at least one other member shall be a member of a minority race, and at least one other member shall be a member of the political party to which the largest minority of the members of the General Assembly belong. In subsequent elections to the Board, the General Assembly shall maintain at least these minimum proportions among the members of the Board.

§ 116-7. General provisions concerning members of the Board of Governors. — (a) All members of the Board of Governors shall be selected for their interest in, and their ability to contribute to the fulfillment of, the purposes of the Board of Governors, and all members shall be deemed members-at-large, charged with the responsibility of serving the best interests of the whole State. In electing members, the objective shall be to obtain the services of the best qualified citizens of the State, taking into consideration the need for representation on the Board by the different races, sexes and political parties.

(b) From and after July 1, 1973, no member of the General Assembly or officer or employee of the State or of any constituent institution or spouse of any such member, officer or employee may be a member of the Board of Governors. Any member of the Board of Governors who is elected or appointed to the General Assembly or who becomes an officer or employee of the State or of any constituent institution or whose spouse is elected or appointed to the General Assembly or becomes such officer or employee shall be deemed thereupon to resign from his membership on the Board of Governors.
(c) Whenever any vacancy shall occur in the elected membership of the Board of Governors, it shall be the duty of the secretary of the Board to inform the General Assembly of the existence of the vacancy, and the General Assembly at its next regular session shall elect a person to fill the unexpired term. Whenever a member shall fail, for any reason other than ill health or service in the interest of the State or nation, to be present for four successive regular meetings of the Board, his place as a member shall be deemed vacant.

"§ 116-8. Chairman, vice-chairman and secretary.—The Board of Governors shall elect from its membership for two-year terms, and until their successors have been elected and qualified, a chairman, a vice-chairman and a secretary. No person may serve as chairman more than four years in succession.

"§ 116-9. Meetings of Board of Governors.—The Board of Governors shall meet at stated times established by the Board, but not less frequently than six times a year. A quorum for the conduct of business shall consist of a majority of the members.

"§ 116-10. Committees.—The Board of Governors shall have power to appoint from its own number committees which shall be clothed with such powers as the Board of Governors may confer. No committee may reverse a decision concerning policy taken by the Board of Governors at a regular meeting.

"§ 116-11. Powers and duties generally.—The powers and duties of the Board of Governors shall include the following:

1. The Board of Governors shall plan and develop a coordinated system of higher education in North Carolina. To this end it shall govern the 16 constituent institutions, subject to the powers and responsibilities given in this Article to the boards of trustees of the institutions, and to this end it shall maintain close liaison with the State Board of Education, the Department of Community Colleges and the private colleges and universities of the State. The Board, in consultation with representatives of the State Board of Education and of the private colleges and universities, shall prepare and from time to time revise a long-range plan for a coordinated system of higher education, supplying copies thereof to the Governor, the members of the General Assembly, the Advisory Budget Commission and the institutions. State-wide federal or State programs that provide aid to institutions or students of post-secondary education through a State agency, except those related exclusively to the Community College System, shall be administered by the Board pursuant to any requirement of State or federal statute in order to assure that all activities are consonant with the State's long-range plan for higher education.

2. The Board of Governors shall be responsible for the general determination, control, supervision, management and governance of all affairs of the constituent institutions. For this purpose the Board may adopt such policies and regulations as it may deem wise. Subject to applicable State law and to the terms and conditions of the instruments under which property is acquired, the Board of Governors may acquire, hold, convey or otherwise dispose of, invest and reinvest any and all real and personal property, with the exception of any property that may be held by trustees of institutional endowment funds under the provisions of G.S. 116-36 or that may be held, under authority delegated by the Board of Governors, either by a board of trustees or by trustees of any other endowment or trust fund.

3. The Board shall determine the functions, educational activities and academic programs of the constituent institutions. The Board shall also determine the types of degrees to be awarded. The powers herein given to the Board shall not be restricted by any provision of law assigning specific functions or responsibilities to the institutions, the powers herein given superceding any provision of law. The Board, after adequate notice and after affording the institutional board of trustees an opportunity to be heard, shall have authority to withdraw approval of any existing program if it appears that the program is unproductive, excessively costly or unnecessarily duplicative.

4. The Board of Governors shall elect officers as provided in G.S. 116-14. Subject to the provisions of Section 18 of this Act, the Board shall also elect, on nomination of the President, the chancellor of each of the constituent institutions and fix his compensation. The President shall make his nomination from a list of not fewer than two names recommended by the institutional board of trustees.

5. The Board of Governors shall, on recommendation of the President and of the appropriate institutional chancellor, appoint and fix the compensation of all vice-chancellors, senior academic and administrative officers and persons having permanent tenure.

6. The Board shall approve the establishment of any new publicly-supported institution above the community college level.

7. The Board shall set tuition and required fees at the institutions, not inconsistent with actions of the General Assembly.

8. The Board shall set enrollment levels of the constituent institutions.

9. The Board shall make grants to the Governor, the Advisory Budget Commission and the General Assembly a single, unified recommended budget for all of public senior higher education. The recommendations shall consist of requests in three general categories: (a) funds for the continuing operation of each constituent institution, (b) funds for salary increases for employees exempt from the State Personnel Act and (c) funds requested without reference to constituent institutions, itemized as to priority and covering such areas as new programs and activities, expansions of programs and activities, increases in enrollments, increases to accommodate internal shifts and categories of persons served, capital improvements, improvements in levels of operation and increases to remedy deficiencies, as well as other areas.

b. Funds for the continuing operation of each constituent institution shall be appropriated directly to the institution. Funds for salary increases for employees exempt from the State Personnel Act shall be appropriated to the Board in a lump sum for allocation to the institutions. Funds for the third category in paragraph a. of this subdivision shall be appropriated...
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to the Board in a lump sum. The Board shall allocate to the institutions any funds appropriated, said allocation to be made in accordance with the Board’s schedule of priorities; provided, however, that when both the Board and the Advisory Budget Commission deem it to be in the best interest of the State, funds in the third category may be allocated, in whole or in part, for other items within the list of priorities or for items not included in the list.

c. The Advisory Budget Commission may, on recommendation of the Board, authorize transfer of appropriated funds from one institution to another to provide adjustments for over- or under-enrollment or may make any other adjustments among institutions that would provide for the orderly and efficient operation of the institutions.

(10) The Board shall collect and disseminate data concerning higher education in the State. To this end it shall work cooperatively with the Department of Community Colleges and shall seek the assistance of the private colleges and universities. It may prescribe for the constituent institutions such uniform reporting practices and policies as it may deem desirable.

(11) The Board shall assess the contributions and needs of the private colleges and universities of the State and shall give advice and recommendations to the General Assembly to the end that the resources of these institutions may be utilized in the best interest of the State. All requests by private institutions of higher education for State assistance to the institutions or to students attending them shall be submitted first to the Board for review and recommendation before being presented to any other State agency or to the General Assembly.

(12) The Board shall give advice and recommendations concerning higher education to the Governor, the General Assembly, the Advisory Budget Commission and the boards of trustees of the institutions.

(13) The Board may delegate any part of its authority over the affairs of any institution to the board of trustees or, through the President, to the chancellor of the institution in any case where such delegation appears necessary or prudent to enable the institution to function in a proper and expeditious manner. Any delegation of authority may be rescinded by the Board at any time in whole or in part.

(14) The Board shall possess all powers not specifically given to institutional boards of trustees.

“4 116-12. Property and obligations. — All property of whatsoever kind and all rights and privileges held by the Board of Higher Education and by the boards of trustees of Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, North Carolina School of the Arts, Pembroke State University, Western Carolina University and Winston-Salem State University, as said property, rights and privileges may exist immediately prior to July 1, 1972, shall be, and hereby are, effective July 1, 1972, transferred to and vested in the Board of Governors of the University of North Carolina. All obligations of whatsoever kind of the Board of Higher Education and of the boards of trustees of Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical State University, North Carolina Central University, North Carolina School of the Arts, Pembroke State University, Western Carolina University and Winston-Salem State University, as said obligations may exist immediately prior to July 1, 1972, shall be, and the same hereby are, effective July 1, 1972, transferred to and assumed by the Board of Governors of the University of North Carolina. Any property, real or personal, held immediately prior to July 1, 1972, by a board of trustees of a constituent institution for the benefit of that institution or by the University of North Carolina for the benefit of any one or more of its six institutions, shall, from and after July 1, 1972, be kept separate and distinct from other property held by the Board of Governors, shall continue to be held for the benefit of the institution or institutions that were previously the beneficiaries and shall continue to be held subject to the provisions of the respective instruments, grants or other means or process by which any property right was acquired. In case a conflict arises as to which property, rights or privileges were held for the beneficial interest of a particular institution, or as to the extent to which such property, rights or privileges are held, the Board of Governors shall determine the issue, and the determination of the Board shall constitute final administrative action. Nothing in this Article shall be deemed to increase or diminish the income, other revenue or specific property which is pledged, or otherwise hypothecated, for the security or liquidation of any obligations, or the intent that the Board of Governors shall assume said obligations without thereby either enlarging or diminishing the rights of the holders thereof.

“4 116-13. Powers of Board regarding property shall be subject to general law. — The power and authority granted to the Board of Governors with regard to the acquisition, operation, maintenance and disposition of real and personal property shall be subject to, and exercised in accordance with, the provisions of Chapter 143 and 146 of the General Statutes.

“4 116-14. President and staff. — (a) The Board shall elect a President of the University of North Carolina. He shall be the chief administrative officer of the University.

(b) The President shall be assisted by such professional staff members as may be deemed necessary to carry out the provisions of this Article, who shall be elected by the Board on nomination of the President. The Board shall fix the compensation of the staff members it elects. These staff members shall include a senior vice president and such other vice presidents and officers as may be deemed desirable. Provision shall be made for persons of high competence and strong professional experience in such areas as academic affairs, public service programs, business and financial affairs, institutional studies and long-range planning, student affairs, research, legal affairs, health affairs and institutional development, and for State and federal programs administered by the Board. In addition, the President shall be assisted by such other employees as may be needed to carry out the provisions of this Article, who shall be subject to the
provisions of Chapter 126 of the General Statutes. The staff complement shall be established by the Board on recommendation of the President to insure that there are persons on the staff who have the professional competence and experience to carry out the duties assigned and to insure that there are persons on the staff who are familiar with the problems and capabilities of all of the principal types of institutions represented in the system.

(c) The President, with the approval of the Board, shall appoint an advisory committee composed of representative presidents of the private colleges and universities and may appoint such additional advisory committees as are deemed necessary or desirable.

§ 116-15. Licensing of non-public educational institutions; regulation of degrees. — (a) No non-public educational institution created or established in this State after April 15, 1923, by any person, firm, organization, or corporation shall have power or authority to confer degrees upon any person except as provided in this section. The Board of Governors shall call to the attention of the Attorney General, for such action as he may deem appropriate, any institution failing to comply with the requirements of this section.

(b) The Board of Governors, under such standards as it shall establish, may issue its license to confer degrees in such form as it may prescribe to a non-public educational institution established in this State after April 15, 1923, by any person, firm, organization, or corporation; but no non-public educational institution established in the State subsequent to that date shall be empowered to confer degrees unless it has income sufficient to maintain an adequate faculty and equipment sufficient to provide adequate means of instruction in the arts and sciences, or in any other recognized field or fields of learning or knowledge.

(c) All non-public educational institutions licensed under this section shall file such information with the President as the Board of Governors may direct, and the said Board may evaluate any non-public educational institution applying for a license to confer degrees under this section. If any such non-public educational institution shall fail to maintain the required standards, the Board shall revoke its license to confer degrees, subject to a right of review of this decision in the manner provided in Article 33 of Chapter 143 of the General Statutes.

(d) The State Board of Education shall have sole authority to administer and supervise, at the State level, the system of community colleges, technical institutes, and industrial education centers provided in Chapter 115A of the General Statutes, and shall regulate the granting of appropriate, two-year degrees, and marks of distinction by those institutions.


§ 116-31. Membership of the boards of trustees. — (a) All persons who, as of June 30, 1972, are serving as trustees of the regional universities and of the North Carolina School of the Arts, except those who may have been elected to the Board of Governors, shall continue to serve for one year beginning July 1, 1972, and the terms of all such trustees shall continue for the period of one year.

(b) Effective July 1, 1972, a separate board of trustees shall be created for each of the following institutions: North Carolina State University at Raleigh, the University of North Carolina at Asheville, the University of North Carolina at Chapel Hill, the University of North Carolina at Charlotte, the University of North Carolina at Greensboro, and the University of North Carolina at Wilmington. For the period commencing July 1, 1972, and ending June 30, 1973, each such board shall be constituted as follows:

(1) 12 or more persons elected prior to July 1, 1972, by and from the membership of the Board of Trustees of the University of North Carolina, and

(2) the president of the student government of the institution, ex officio.

(c) If any vacancy should occur in any board of trustees during the year beginning July 1, 1972, the Governor may appoint a person to serve for the balance of the year.

(d) Effective July 1, 1973, each of the 16 constituent institutions shall have a board of trustees composed of 13 persons chosen as follows:

(1) eight elected by the Board of Governors,

(2) four appointed by the Governor, and

(3) the president of the student government, ex officio.

(e) From and after July 1, 1973, the term of office of all trustees, except the ex officio member, shall be four years, commencing on July 1 of odd-numbered years. In every odd-numbered year the Board of Governors shall elect four persons to each board of trustees and the Governor shall appoint two persons to each such board.

(f) In electing boards of trustees to serve commencing July 1, 1973, the Board of Governors shall designate four persons for four-year terms and four for two-year terms. The Governor, in making appointments of trustees to serve commencing July 1, 1973, shall designate two persons for four-year terms and two for two-year terms.

(g) From and after July 1, 1973, any person who has served two full four-year terms in succession as a member of a board of trustees shall, for a period of one year, be ineligible for election or appointment to the same board but may be elected or appointed to the board of another institution.

(h) From and after July 1, 1973, no member of the General Assembly or officer or employee of the State or of any constituent institution or spouse of any such member, officer or employee shall be eligible for election or appointment as a trustee. Any trustee who is elected or appointed to the General Assembly or who becomes an officer or employee of the State or of any constituent institution or whose spouse is elected or appointed to the General Assembly or becomes such officer or employee shall be deemed thereupon to resign from his membership on the board of trustees.

(i) No person may serve simultaneously as a member of a board of trustees and as a member of the Board of Governors. Any trustee who is
elected or appointed to the Board of Governors shall be deemed to resign as a trustee effective as of the date that his term commences as a member of the Board of Governors.

(j) From and after July 1, 1973, whenever any vacancy shall occur in the membership of a board of trustees among those appointed by the Governor, it shall be the duty of the secretary of the board to inform the Governor of the existence of such vacancy, and the Governor shall appoint a person to fill the unexpired term, and whenever any vacancy shall occur among those elected by the Board of Governors, it shall be the duty of the secretary of the board to inform the Board of Governors of the existence of the vacancy, and the Board of Governors shall elect a person to fill the unexpired term. Whenever a member shall fail, for any reason other than ill health or service in the interest of the State or nation, to be present for three successive regular meetings of a board of trustees, his place as a member shall be deemed vacant.

§ 116-32. Officers and meetings of the boards of trustees. — At the first meeting after June 30 of each year each board of trustees shall elect from its membership a chairman, a vice-chairman and a secretary. Each board of trustees shall hold not less than three regular meetings a year and may hold such additional meetings as may be deemed desirable.

§ 116-33. Powers and duties of the boards of trustees. — Each board of trustees shall promote the sound development of the institution within the functions prescribed for it, helping it to serve the State in a way that will complement the activities of the other institutions and aiding it to perform at a high level of excellence in every area of endeavor. Each board shall serve as advisor to the Board of Governors on matters pertaining to the institution and shall also serve as advisor to the chancellor concerning the management and development of the institution. The powers and duties of each board of trustees, not inconsistent with other provisions of this Article, shall be defined and delegated by the Board of Governors.

§ 116-34. Duties of chancellor of institution. — (a) The chancellor shall be the administrative and executive head of the institution and shall exercise complete executive authority therein, subject to the direction of the President. He shall be responsible for carrying out policies of the Board of Governors and of the board of trustees. As of June 30 of each year he shall prepare for the Board of Governors and for the board of trustees a detailed report on the operation of the institution for the preceding year.

(b) It shall be the duty of the chancellor to attend all meetings of the board of trustees and to be responsible for keeping the board of trustees fully informed on the operation of the institution and its needs.

(c) It shall be the duty of the chancellor to keep the President, and through him the Board of Governors, fully informed concerning the operations and needs of the institution. Upon request, he shall be available to confer with the President or with the Board of Governors concerning matters that pertain to the institution.

(d) Subject to policies prescribed by the Board of Governors and by the board of trustees, the chancellor shall make recommendations for the appointment of personnel within the institution and for the development of educational programs.

§ 116-35. Electric power plants, campus school, etc. — Institutions operating electric power plants and distribution systems as of the date of ratification of this section are authorized to continue such operation and, after furnishing power to the institution, to sell any excess current to the people of the community at a rate or rates approved by the Utilities Commission. Any net profits derived from the operation, or any proceeds derived from the lease or sale, of such power plants and distribution systems shall be paid into the permanent endowment fund held for the institution as provided for in G.S. 110-36. Institutions operating or authorized to operate, as of the date of ratification of this section, water or sewer distribution systems, may continue to do so. Each of the institutions now operating a campus laboratory or demonstration school may continue to do so under the presently existing plan of operation, consistent with the appropriations made therefor. The provisions of this section shall not apply to the University Enterprises of the University of North Carolina at Chapel Hill, which shall continue to be governed in all respects as provided in Chapters 634 and 723 of the Session Laws of 1971, G.S. 116-41.1 through 116-41.12, and other applicable legislation.

§ 116-36. Endowment fund. — (a) Each board of trustees is authorized to establish and maintain, pursuant to such terms and conditions as the Board of Governors of the University of North Carolina may from time to time prescribe, a permanent endowment fund for the institution.

(b) Such board of trustees may appoint an investment board to be known as 'The Board of Trustees of the Endowment Fund of ............' (here shall be inserted the name of the institution), which board of trustees of the endowment fund is hereby created an agency of the Board of Governors of the University of North Carolina with the powers and duties prescribed in this section. The board of trustees of the endowment fund shall consist of five members, including the chairman of the board of trustees of the institution, the chancellor of the institution and three other persons, not necessarily members of the board of trustees of the institution, to be chosen by the board of trustees of the institution, subject to confirmation by the Board of Governors of the University of North Carolina. The three elected members shall serve for terms prescribed by the Board of Governors of the University of North Carolina.

(c) The chairman of the board of trustees of the institution shall also be the chairman of the board of trustees of the endowment fund.

(d) The trustees of said endowment fund may receive gifts, donations, and bequests, may in their discretion retain such in the form in which they are made, and may use the same as a permanent endowment fund. Said trustees may retain in such permanent endowment fund any other moneys or securities of any kind that may come to them from the Board of Governors of the University of North Carolina or that may come to the trustees of the endowment fund from any other source, excepting always the moneys received from State appropriations, and from tuition, fees, and the like, collected from students and used for the general operation of the
institution. The trustees of the endowment fund shall have power to sell any property, real or personal, of the fund, at either public or private sale, and in doing so they shall not be subject to the provisions of Chapters 148 and 146 of the General Statutes.

(e) The trustees of the endowment fund shall be responsible for the prudent investment of the fund, in the exercise of their sound discretion, without regard to any statute or rule of law relating to the investment of funds by fiduciaries.

(f) The principal of said endowment fund shall be kept intact and only the income therefrom may be expended. The trustees of the endowment fund shall determine what is income and what is principal.

(g) It is not the intent that the income from such endowment fund shall take the place of State appropriations or any part thereof but that it shall supplement the State appropriations to the end that the institution may improve and increase its functions, may enlarge its areas of service and may become more useful to a greater number of people. All expenditures of money from the endowment fund shall in all cases be approved by the Board of Governors of the University of North Carolina, acting with the advice of the board of trustees of the institution, and expended under the direction of the Board of Governors. Funds from the endowment fund shall not be expended for a purpose which will impose a financial burden on the State of North Carolina without first securing the approval of the Advisory Budget Commission.

(h) The Board of Governors of the University of North Carolina shall establish standards for such scholarships as may be awarded from proceeds of said endowment fund and may change or alter such standards from time to time.

(i) Nothing in this section shall be construed to prevent the trustees of the endowment fund from receiving gifts, donations and bequests and from using the same for such lawful purposes as the donor or donors designate, subject always to the approval of the Board of Governors of the University of North Carolina, and subject, further, to the approval of the Advisory Budget Commission if the expenditure of funds would impose a financial burden on the State of North Carolina.

Sec. 2. G.S. 116-19 is renumbered G.S. 116-16 and rewritten to read as follows: "The lands and other property belonging to the University of North Carolina shall be exempt from all kinds of public taxation."

Sec. 3. G.S. 116-46.2 is renumbered G.S. 116-17 and is amended by deleting "articles 1 and 2 of chapter 116 of the General Statutes, as amended," and inserting in lieu thereof "this Article"; by deleting the phrase "boards of trustees" each time it appears and inserting in lieu thereof "governing boards".

Sec. 4. G.S. 116-158(9) as enacted by Chapter 1086 of the Session Laws of 1971 is renumbered G.S. 116-18 and is amended to add after the word "Board" the first time it appears the words "of Governors of the University of North Carolina".

Sec. 5. G.S. 116-158.3 through G.S. 116-158.4 as enacted by Chapter 744 of the Session Laws of 1971 are renumbered G.S. 116-19 through G.S. 116-22 and are amended by deleting the words "Board of Higher Education" and "North Carolina Board of Higher Education" each time they appear and inserting in lieu thereof "Board of Governors of the University of North Carolina" and by altering appropriately the statutory references therein.

Sec. 6. G.S. 116-11.1 as enacted by Chapter 762 of the Session Laws of 1971 is renumbered G.S. 116-37 and is amended by deleting the words "trustees" wherever it appears and inserting in lieu thereof the word "Governors".

Sec. 7. G.S. 116-44.2 is renumbered G.S. 116-38.

Sec. 8. G.S. 116-32 is renumbered G.S. 116-39 and is amended by deleting "board of trustees" and inserting in lieu thereof "Board of Governors of the University of North Carolina".

Sec. 9. G.S. 116-30 and G.S. 116-31 are renumbered G.S. 116-40 and G.S. 116-40.1 and are amended by deleting the word "trustees" wherever it appears and inserting in lieu thereof the word "Governors".

Sec. 10. G.S. 116-37.1, G.S. 116-46.3 and G.S. 116-46.4 are hereby renumbered G.S. 116-40.2, G.S. 116-40.3 and G.S. 116-40.4 respectively.

Sec. 11. (a) G.S. 116-44.1, as the same appears in the 1966 Replacement Volume 3A of the General Statutes and in the 1969 Cumulative Supplement thereto and as amended by c. 301 of the 1971 Session Laws, is amended by adding to the phrase "University of North Carolina" as it appears in lines four and five "at Chapel Hill, North Carolina State University at Raleigh, the University of North Carolina at Greensboro, the University of North Carolina at Charlotte, the University of North Carolina at Asheville and the University of North Carolina at Wilmington"; by deleting the phrase "the University of North Carolina" as it appears in line nine and inserting in lieu thereof the words "each of the institutions named"; by changing the word "trustees" wherever it appears in said section to read "Governors"; by striking from the last sentence of said section as amended the words "authorize its executive committee to exercise" and inserting in lieu thereof the word "delegate".

(b) G.S. 116-46.1, as the same appears in the 1966 Replacement Volume 3A of the General Statutes, is hereby amended by deleting in lines 4 and 5, in line 9 and in lines 24 and 25 the words "Teachers College" and inserting in each case the word "University"; by deleting in lines 10, 11 and 23 the words "trustees of Appalachian State Teachers College" and inserting in each case the words "Governors of the University of North Carolina" and by adding a subsection (d) reading as follows: "The authority granted in this section to the Board of Governors may, by delegation of said Board, be exercised by the Board of Trustees of the institution."

(c) G.S. 116-46.1A, as amended by the 1971 General Assembly, is amended by deleting the phrase "boards of trustees of Western Carolina University" each time it appears and inserting in lieu thereof the phrase "Board of Governors of the University of North Carolina"; by changing
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the word “trustees” wherever it appears and inserting in lieu thereof the word “Governors”; and by adding a subsection (e) to read as follows: “The authority granted in this section to the Board of Governors may, by delegation of said Board, be exercised by the Board of Trustees of the institution.”

(d) G.S. 116-46.1B as enacted by Chapter 889 of the Session Laws of 1971 is hereby amended by deleting the phrase “trustees of Pembroke State University” wherever it appears and inserting in lieu thereof the phrase “Governors of the University of North Carolina”; by changing the word “trustees” each time it appears in said section to read “Governors” and by adding a subsection (d) reading as follows: “The authority granted in this section to the Board of Governors may, by delegation of said Board, be exercised by the Board of Trustees of the institution.”

(e) G.S. 116-186 is amended by deleting therefrom “The board of trustees of each institution enumerated in Articles 1, 2 and 3 of this Chapter” and inserting in lieu thereof the following: “The Board of Governors of the University of North Carolina or, by delegation of that Board, the board of trustees of any institution enumerated in G.S. 116-4”; by rewriting the second sentence of said section to read: “In connection with registration, the Board of Governors or, where the authority is delegated, the institutional board of trustees may charge a registration fee.”

(f) G.S. 116-44.1, G.S. 116-46.1, G.S. 116-46.1A, G.S. 116-46.1B and G.S. 116-186, all as amended herein, are renumbered G.S. 116-42, G.S. 116-42.1, G.S. 116-42.2, G.S. 116-42.3 and G.S. 116-42.4 respectively and transferred to Part 5 of Article 1, “Miscellaneous Provisions”.

Sec. 12. G.S. 116-143, as amended by Chapter 845 of the 1971 Session Laws is hereby amended by rewriting the first sentence to read as follows: “The Board of Governors of the University of North Carolina shall fix the tuition and fees, not inconsistent with actions of the General Assembly, at the institutions enumerated in G.S. 116-4 in such amount or amounts as it may deem best, taking into consideration the nature of each institution and program of study and the cost of equipment and maintenance; and each institution shall charge and collect from each student, at the beginning of each semester or quarter, tuition, fees, and an amount sufficient to pay other expenses for the term.”; and by deleting from the last sentence of said section “said boards of trustees of the institutions of higher education provided for in Articles 1 and 2 of Chapter 116 may, in their discretion and inserting in lieu thereof the following: “Board of Governors of the University of North Carolina may, in its discretion”. Sec. 13. (a) G.S. 116-64 is amended to add a new sentence to read as follows: “The School shall be designated the ‘North Carolina School of the Arts.’”

(b) G.S. 116-65 is rewritten to read as follows: “The North Carolina School of the Arts is a part of the University of North Carolina and subject to the provisions of Article 1, Chapter 116, of the General Statutes; provided, however, that notwithstanding the provisions of G.S. 116-31, the Board of Trustees of said School shall consist of 14 persons, 13 of whom are selected in accordance with provisions of G.S. 116-31 and one of whom shall be the conductor of the North Carolina Symphony, who shall serve ex officio.”

(c) G.S. 116-68 is rewritten to read as follows: “The Board of Governors of the University of North Carolina and the Board of Trustees of the School shall be advised and assisted by the State Board of Education and by the Advisory Board of the School. Entrance requirements shall be prescribed so that the professional training offered shall be available only to those students who possess exceptional talent in the performing arts. In developing curricula the School shall utilize, pursuant to agreement with institutions of higher education or with any local administrative school unit, existing facilities and such academic nonarts courses and programs of instruction as may be needed by the students of the School, and, in the discretion of the Board of Governors, personnel may be employed jointly with any such institution or unit on a cooperative, cost-sharing basis. Curricula below the collegiate level shall be developed with the advice and approval of the State Board of Education and in consultation with the Southern Regional Education Board and with other regional and national organizations to obtain wide support and to establish the School as the center in the South for the professional training and performance of artists. The Chancellor of the School shall preferably be a noted composer or dramatist.”

(d) G.S. 116-68 is amended to delete “G.S. 116-46(7)” and to insert in lieu thereof “Article 1, Chapter 116, of the General Statutes”.

(e) G.S. 116-70 and G.S. 116-70.1 are repealed.

Sec. 14. (a) G.S. 116-154 through G.S. 116-158(8) and G.S. 116-158 through G.S. 116-157 are repealed.

(b) Whenever the terms “Board of Higher Education” or “State Board of Higher Education” or “North Carolina Board of Higher Education” appear in the statutes, they are hereby changed to “Board of Governors of the University of North Carolina”. Whenever the terms “Director of Higher Education” or “Director of the Board of Higher Education” appear in the statutes, they are hereby changed to “President of the University of North Carolina”.

Sec. 15. Whenever the words “boards of trustees” or “trustees” appear in the statutes with reference to the Board of Trustees of the University of North Carolina it shall be construed to mean the “Board of Governors”.

Sec. 16. (a) G.S. 116-41.1(1) is amended by changing the word “trustees” to “Governors”.

(b) G.S. 116-175(1) is rewritten to read: “The word ‘board’ shall mean the Board of Governors of the University of North Carolina.” G.S. 116-175(3) is amended to delete “and § 116-46”. G.S. 116-174(4), as the same appears in the 1966 Replacement Volume 3A of the General Statutes, is amended by deleting from line 2 the following: “trustees, the Board of Higher Education,” and by inserting in lieu thereof: “Governors of the University of North Carolina”; further by deleting from line 7 the words
Sec. 20. (a) The membership of the initial Board of Governors of the University of North Carolina, as provided for in G.S. 116-5, as rewritten by this act, shall be designated prior to December 31, 1971, by the various institutional boards of trustees and by the Board of Higher Education, and effective January 1, 1972, the persons so designated, with the Governor as chairman, shall constitute a Planning Committee to serve until July 1, 1972, on which date the members of the committee shall become, in accordance with the provisions of G.S. 116-5, the initial Board of Governors of the University of North Carolina.

(b) The Planning Committee shall have the following powers and duties:

1. To prepare a plan for the merging of the staff positions of the Board of Higher Education and of the General Administration of the University of North Carolina, said plan to become effective July 1, 1972;

2. To elect a President and, upon his recommendation, to elect such other officers as may be deemed necessary or desirable, all of whom shall take office on or after July 1, 1972, and to designate positions, titles and salaries for the new staff;

3. To assign individual staff members of the Board of Higher Education and of the General Administration of the University of North Carolina to serve as temporary staff for the Planning Committee and to employ such additional staff personnel as may be needed;

4. With the approval of the Advisory Budget Commission, to make adjustments in the operating budgets of the Board of Higher Education and of the General Administration of the University of North Carolina, combining the two budgets into one budget effective July 1, 1972;

5. To make such arrangements as may be deemed desirable for housing the staff of the Board of Governors;

6. Following consultation with institutional heads and with the boards of trustees of the institutions, to make any and all plans that may be deemed desirable to effectuate the merger of the 10 institutions into the University of North Carolina;

7. To make recommendations to the Governor, the Department of Administration, the Board of Higher Education and the institutional boards of trustees concerning actions that, in the judgment of the Planning Committee, would facilitate the implementation of this act.

(c) With the approval of the Advisory Budget Commission, the Planning Committee may, during the period January 1 to June 30, 1972, use such funds as it may deem desirable from the operating budget of the General Administration of the University of North Carolina or from the operating budget of the Board of Higher Education. In addition the Planning Committee may request funds from the Contingency and Emergency Fund to be used either during the six-month period or for the year beginning July 1, 1972, if the Planning Committee concludes that additional funds are needed.

(d) If any vacancy should occur in the Planning Committee after January 1, 1972, and prior to July 1, 1972, it shall be filled by the in-
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S. B. 1011  CHAPTER 1245


The General Assembly of North Carolina enacts:

Section 1. Chapter 617 of the Session Laws of 1971 is hereby amended by adding a new sentence to Section 21 to read as follows:

"Provided, that in the event the issuance of Mixed Beverage Licenses hereunder to natural persons, corporations, partnerships, and fraternal or patriotic forms of business organizations shall be determined to be unconstitutional by the Supreme Court of the State of North Carolina, this act and the Comprehensive Plan adopted hereunder shall be null and void and of no effect."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of October, 1971.

H. B. 1608  CHAPTER 1246

AN ACT REGARDING THE EXCHANGE OF CERTAIN PROPERTY BETWEEN THE BOARD OF EDUCATION OF ASHE COUNTY AND THE TOWN OF JEFFERSON.

The General Assembly of North Carolina enacts:

Section 1. For the consideration of the exchange of property herein provided for, the Board of Education of Ashe County is hereby authorized to convey to the Town of Jefferson a certain lot described as follows:

BEGINNING at a point in the intersection of the Main Street of the Town of Jefferson, also U. S. Highway No. 221, and the street running to the County Jail, running with the edge of the Jail Street to a lane running to the Denny property; thence East with said lane to the line of Thomas S. Johnston; thence with Johnston’s line North to the Main Street; thence with the Main Street West to the BEGINNING.

Sec. 2. For the consideration of the exchange of property herein provided for, the Board of Aldermen of the Town of Jefferson is hereby authorized to convey to the Board of Education of Ashe County a lot fully described in the deed to the Town of Jefferson in Book U-4, page 90, Ashe County Registry.

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of October, 1971.

H. B. 1606  CHAPTER 1247

AN ACT OF LIMITED DURATION TO PERMIT ABSENTEE VOTING BY STUDENTS AND OTHERS IN THE 1972 PRIMARIES.

The General Assembly of North Carolina enacts:

Section 1. Article 20 of Chapter 163 of the General Statutes of North Carolina is hereby amended by inserting a new section to be designated as G.S. 163-240 and to read as follows:

"§ 163-240. Temporary applicability to civilians. — Any civilian who is registered to vote no later than 21 days, excluding Saturdays and Sundays, prior to the date of the state-wide primary election to be conducted in 1972 shall be authorized to make application for and vote on absentee ballot in the primary in the county of such voter’s legal residence under the following conditions:

(a) Applicant must be a registered voter in the county in which application is made.

(b) Applicant must be affiliated with a political party at the time application is made.

(c) Applicant shall make a written request for an application form for absentee ballots not earlier than 35 days nor later than 6:00 p.m. on Tuesday before the primary election.

(d) No one shall be allowed to vote by absentee ballot in any state-wide bond election held during the time for which this act is effective.

(e) Ballots shall be issued by U. S. mail only. Applicants shall not be permitted to pick up applications or return ballots in person but shall deposit same in the U. S. mail, addressed to the Chairman of the County Board of Elections in the envelope provided for such purpose.

"§ 163-240.1. Second primary application. — A voter falling in the category defined in Section 1 of this bill, G.S. 163-240 and G.S. 163-240.2, may apply for absentee ballots for the second primary not earlier than the day a second primary is called and not later than 6:00 p.m. on Tuesday, immediately preceding the second primary election date; applications for ballots, issuance and return of same, must be in the same manner as provided in G.S. 163-240(e) and G.S. 163-240(e).

"§ 163-240.2. Form of application. — The form of application for persons applying under the provisions of this section shall be the same as the application now required under provisions of G.S. 163-217 for persons ap-