INSTITUTIONAL TRUST FUND LEGISLATION

The authority for the establishment of non-appropriated funds by the University is granted through the legislative process. Chapter 116, Article 1 of the General Statutes provides the legal requirements, corporate powers, rights and duties of the University of North Carolina System. Following is a discussion of the legislation providing for the establishment of trust funds by the University.

General Statute 116-36 "Endowment Funds" provides the legal authority to the board of trustees of each constituent institution to establish and maintain, pursuant to such terms and conditions, uniformly applicable to all constituent institutions, as the Board of Governors of the University of North Carolina may from time to time prescribe, an endowment fund and shall establish an investment board known as "The Board of Trustees of the Endowment Fund of (name of University)". The board of trustees shall be responsible for the prudent investment of the fund. Any gift, devise, or bequest of real or personal property to the University shall be presumed, nothing to the contrary appearing, a gift, devise, or bequest, as the case may be, to the endowment fund of the University. Proceeds from any endowment fund shall not take the place of State appropriations or any part thereof but rather 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.

General Statute 116-36.1 "Regulation of Institutional Trust Funds" provides the legal authority for the University to establish institutional trust funds. This legislation was created by the 1977 General Assembly and places responsibility for the custody and management of university institutional trust funds with the University of North Carolina Board of Governors. Subsection (a) of the statute directs the Board to adopt uniform policies and procedures over the administration of the institutional trust funds that would ensure that the receipt and expenditure of such funds are properly authorized and that the funds are appropriately accounted for. These uniform policies and procedures are discussed further under the caption "UNC POLICIES AND PROCEDURES ON TRUST FUNDS." Subsection (b) of the statute provides that the University's State Treasurer Account and interest earned on its deposits are available for expenditure without further authorization from the General Assembly. Subsection (h) allows the Board to authorize, through the President, that the chancellors may deposit or invest each institution’s available trust fund cash balances in interest-bearing accounts and other investments as may be authorized by the Board. Subsection (d) of the statute provides that the institutional trust funds are subject to the oversight of the State Auditor but are not subject to the provisions of the Executive Budget Act except for capital improvement projects that are subject to G.S. 143C-8-9. Subsection (e) of the statute requires the submission of reports as may be required by the Board. Subsection (f) of the statute provides that the trust funds or investment income there from shall not take the place of State Appropriations and shall be used to supplement 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. Subsection (g) defines trust funds as follows:

1. Moneys, or the proceeds of other forms of property, received by an institution as gifts or devises that are neither presumed nor designated to be gifts or devises to the endowment fund of the institution;
2. Moneys received by an institution pursuant to grants from, or contracts with, the United States government or any agency or instrumentality thereof;
3. Moneys received by an institution pursuant to grants from, or contracts with, any State agencies, and political subdivisions of the State, any other states or
nations or political subdivisions thereof, or any private entities whereby the institution undertakes, subject to terms and conditions specified by the entity providing the moneys, to conduct research, training or public service programs, or to provide financial aid to students;

4. Moneys collected by an institution to support extracurricular activities of students of the institution;

5. Moneys received from or for the operation by an institution of activities established for the benefit of scholarship funds or student activity programs;

6. Money’s received from or for the operation by an institution of any of its self-supporting auxiliary enterprises, including institutional student auxiliary enterprise funds for the operation of housing, food, health, and laundry services;

7. Money’s received by an institution in respect to fees and other payments for services rendered by medical, dental, or other health care professionals under an organized practice plan approved by the institution or under a contractual agreement between the institution and a hospital or other health care provider;

8. The net proceeds from the disposition effected pursuant to Chapter 146, Article 7, of any interest in real property owned by or under the supervision and control of an institution if the interest in real property had first been acquired by gift or devise or through expenditure of moneys defined in this subsection (g) as "trust funds," except the net proceeds from the disposition of an interest in real property first acquired by the institution through expenditure of moneys received as a grant from a state agency;

9. Moneys received from the operation and maintenance of institutional forests and forest farmlands, provided, that such moneys shall be used, when used, by the institution for the support of forest-related research, teaching, and public service programs.

Subsection (i) of the statute provides that the cash balances and receipts of funds identified in the G.S. 116-36.1 are appropriated to the use of the University of North Carolina and its constituent institutions.

General Statute 116-36.2 "Regulation of Special Funds of Individual Institutions" provides the legal authority for the chancellor of each institution to have custody and manage the institution's special funds. It provides that the Board of Governors shall adopt uniform policies and procedures applicable to the administration of these funds, which shall assure that the receipt and expenditure of such funds is properly authorized and that the funds are appropriately accounted for. Special funds of an institution include:

- Moneys received from or for the operation by an institution of its program of intercollegiate athletics;
- Moneys held by an institution as fiscal agent for individual students, faculty, staff members, and organizations.

General Statute 116-41.7 "Proceeds of Bonds, Revenues, Etc., Deemed Trust Funds" provides the legal authority for the proceeds of all bonds issued and all revenues and other moneys received pursuant to the authority of this Part shall be deemed to be trust funds, to be held and applied solely as provided in this Part. The resolution authorizing the issuance of bonds shall provide that any officer to whom, or bank, trust company or fiscal agent to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to regulations as such resolution may provide.
Session Law 1999-237, Appropriation Bill, Section 10.13 "UNC Overhead Receipts" provides the legal authority for overhead receipts earned by constituent institutions of The University of North Carolina to be retained at the campus earning the receipts.

Session Law 2001-424, Appropriation Bill, Section 15.1.(b) "State Agencies to Report on Intellectual Property/Study State Intellectual Property Assets and Technology Transfers" provides that the provisions of this section do not apply to the University of North Carolina and its constituent institutions, or to the North Carolina Community Colleges System, or to employees of these respective institutions who are subject to the intellectual property and inventor policies of the institutions employing them.

To view the North Carolina General Statutes, go to the following website:

http://www.ncga.state.nc.us/gascripts/Statutes/StatutesTOC.pl