MEETING OF THE BOARD OF GOVERNORS

February 24, 2022 at 9:00 a.m.
Via Videoconference and PBS North Carolina Live Stream
University of North Carolina System Office
140 Friday Center Drive
Chapel Hill, North Carolina

AGENDA

OPEN SESSION

1. Invocation ........................................................................................................................Mr. Powers

2. Roll Call........................................................................................................... Secretary Burris-Floyd

3. Presentation of the 2021 Governor James E. Holshouser, Jr. Award for Excellence in Public Service ..........................................................Mrs. Nelson

4. President’s Report ..................................................................................................President Hans

5. Consent Agenda.................................................................................................Chair Ramsey

Minutes
a. Minutes (Open) of January 20, 2022

Committee on Budget and Finance
a. FY2021-22 Maintenance Repair and Renovation Capital Projects
b. Request for Additional Delegated Real Property Authority – UNC Greensboro
c. Capital Improvement Projects
d. Disposition of Property by Demolition – UNC Pembroke
e. Sale of Special Obligation Bonds – East Carolina University
f. Section 600.1.1, Policy on Design, Construction, and Financing of Capital Improvement Projects (amend) (approved January 19, 2022)
g. Section 1000.1.1, Policy on Tuition Rates (amend) (approved January 19, 2022)

Committee on Educational Planning, Policies, and Programs
h. UNC System Academic Program Actions
i. Section 700.1.1, Policy on Minimum Requirements for Undergraduate Admission for the University of North Carolina System (amend) (approved January 19, 2022)

6. Report of the Committee on Budget and Finance.................................................Mr. Holmes
   a. Authorization of Tuition for 2022-23
   b. Authorization of Fees for 2022-23

7. Report of the Committee on Educational Planning, Policies, and Programs ..........Mr. Sloan
   a. Rescission of an Action Taken Pursuant to Section 700.1.3 of the UNC Policy Manual, Policy on Out-of-State Undergraduate Enrollment
   b. UNC Faculty Assembly Update .................................................................Dr. Ives
8. Report of the Committee on University Governance ...................................................... Mr. Powers
   a. UNC School of the Arts Board of Trustees Appointment
   b. Liability Insurance Trust Fund (LITF) Council Appointment
   c. Project Kitty Hawk, Inc., Conflicts of Interest and Ethics Policy

9. Report of the Committee on Audit, Risk Management, and Compliance ............... Mr. Holton

10. Report of the Subcommittee on Laboratory Schools .............................................. Mr. Byers

11. Chair’s Report .......................................................................................................... Chair Ramsey

CLOSED SESSION

12. Approval of Minutes (Closed) of January 20, 2022.................................................. Chair Ramsey

13. Legal Report ............................................................................................................ Mr. Tripp

14. Report of the Committee on Educational Planning, Policies, and Programs ........ Mr. Sloan

15. Report of the Committee on Audit, Risk Management, and Compliance .......... Mr. Holton

16. Report of the Committee on University Personnel .............................................. Mrs. Blue

OPEN SESSION

17. Report of the Committee on University Personnel .............................................. Mrs. Blue

18. Adjourn

The next regularly scheduled meeting of the Board of Governors is Thursday, April 7, 2022, at Western Carolina University.
Closed Session Motion

Motion to go into closed session to:

- Prevent the disclosure of information that is privileged or confidential under Article 7 of Chapter 126 and § 143-748 of the North Carolina General Statutes, or not considered a public record within the meaning of Chapter 132 of the General Statutes.

- Prevent the premature disclosure of an honorary award or scholarship.

- Consult with our attorney to protect attorney-client privilege; and

To consider and give instructions concerning a potential or actual claim, administrative procedure, or judicial action for the following cases:

- UNC School of the Arts and University of North Carolina Tort Claims Affidavits
- Matter of Estate of Montae Imbt Johnson
- Alec Granger v. University of North Carolina

- Consider the qualifications, competence, performance, or condition of appointment of a public officer or employee or prospective public officer or employee.

Pursuant to: G.S. 143-318.11(a)(1), (2), (3), and (6).
The following policy changes to the UNC Policy Manual were recommended at prior committee meetings to be considered by the full Board of Governors on February 24, 2022:

1. Approval of proposed amendments to Section 600.1.1, Policy on Design, Construction, and Financing of Capital Improvement Projects (Budget and Finance).
2. Approval of proposed amendments to Section 700.1.1, Policy on Minimum Requirements for Undergraduate Admission for the University of North Carolina System (Educational Planning).
3. Approval of proposed amendments to Section 1000.1.1, Policy on Tuition Rates (Budget and Finance).
Policy on Design, Construction, and Financing of Capital Improvement Projects

I. Authority. G.S. 143C-8-12 provides the Board of Governors with authority to approve certain expenditures for capital improvement projects that will be funded and operated entirely from non-General Fund money, including expenditures to plan, construct, and change the scope of such projects.

Additionally, G.S. 116-31.11 delegates to the Board of Governors the authority for the administration of design, construction, or renovation of buildings, utilities, and other property developments requiring the estimated expenditure of public money of $2,000,000 or less. The Board is also authorized to delegate that authority to constituent institutions and affiliated entities of the University of North Carolina if an institution or affiliated entity is qualified under guidelines developed in consultation with the director of the budget and the State Building Commission. Pursuant to this authority, guidelines entitled “The University of North Carolina Design and Construction Guidelines” were implemented to provide assistance to the constituent institutions in the administration of the design and construction of capital improvement projects. Copies of the guidelines may be obtained at the UNC System Office.

Pursuant to and consistent with its authority under the North Carolina General Statutes, including G.S. 116-11(13), the Board of Governors adopts the following policy regarding authority of the president and boards of trustees to approve and administer certain capital improvement projects.

II. Approval of Certain Capital Improvement Projects

A. General Delegations of Authority to the President and Boards of Trustees for Approval of Certain Capital Improvement Projects.

1. The Board of Governors delegates to the president and the boards of trustees the power to approve capital improvement projects that are funded entirely with non-General Fund money that are projected to cost less than $750,000.\(^1\) The president’s authority may be exercised on behalf of the UNC System Office, affiliated entities, or the constituent institutions in the president’s discretion.

2. The Board of Governors delegates to the president and the boards of trustees authority to approve advance planning of capital improvement projects, where the advance planning effort is to be funded entirely with non-General Fund money.\(^2\)

3. The Board of Governors delegates to the president the authority to approve an increase of up to 10 percent of the cumulative value of an originally-awarded construction contract for a System Office, affiliated entity, or constituent institution capital improvement project previously authorized by the Board of Governors.
4. After the long-term financing of a capital improvement project has been approved in accordance with statutory requirements, the president may approve interim financing or bank loans as a means of short-term financing. The president shall report any such actions to the Committee on Budget and Finance at its next meeting.

B. Additional Delegations of Authority to the President and Boards of Trustees for Approval of Capital Improvement Projects.

1. The Board of Governors may delegate to the president additional authority to approve capital improvement projects funded entirely with non-General Fund money that are projected to cost less than $1,000,000.³

2. Upon request by the board of trustees of a constituent institution or affiliated entity and with the recommendation of the president, the Board of Governors may delegate to the board of trustees of a constituent institution or affiliated entity additional authority to approve capital improvement projects funded entirely with non-General Fund money that are projected to cost less than $1,000,000.⁴

3. Should the Board of Governors delegate additional authority to one or more boards of trustees or affiliated entities consistent with paragraph 2., above, the president shall automatically receive authority to approve capital improvement projects at a level equal to the highest level of authority delegated to a board of trustees or affiliated entity. The president’s authority may be exercised on behalf of the UNC System Office, affiliated entities, or the constituent institutions in the president’s discretion.

4. The senior vice president for finance and administration, in consultation with the senior vice president and general counsel, shall establish the process by which a constituent institution may request and maintain delegated authority consistent with G.S. 143C-8-12 and other relevant state law. The minimum criteria a constituent institution must meet to receive and maintain authorization from the Board of Governors shall include, but not be limited to, performance of a written, comprehensive self-assessment that demonstrates:

   a. The constituent institution has performed a written, comprehensive self-assessment that demonstrates it has the administrative, technical, and support resources necessary to properly carry out the delegated authority.

   b. The chancellor has certified in writing that the constituent institution has the administrative, technical, and support resources necessary to properly carry out the delegated authority.

   c. The constituent institution has a properly constituted and active campus capital project review committee comprised of individuals with sufficient technical expertise, strategic perspective and executive authority to perform the duties required herein.

   d. The constituent institution has an individual on staff with substantial experience in managing capital improvement projects and the chancellor has designated that individual as the campus capital project coordinator.
e. The constituent institution has appropriate and sufficient technical and professional staff with demonstrated capability in the planning, financing, and oversight of capital improvement projects.

f. An assessment team, assembled and led by the senior vice president for finance, has reviewed the constituent institution’s self-assessment, has performed an on-site capabilities appraisal that confirms the institution’s self-assessment, and has recommended delegation to the president.

Constituent institutions will be reviewed for re-authorization under this section on a periodic basis, to be established by the senior vice president for finance and administration.

5. Upon review in response to a request for re-authorization or in response to a report of noncompliance with this policy or its associated regulations, for good cause, and consistent with G.S. 143C-8-12 and other relevant state law, the president may revoke or suspend the authority of a constituent institution or take other remedial action as the president deems necessary and appropriate. Once authority has been revoked or suspended pursuant to this policy, all future capital improvement projects for the institution involved shall be completed in accordance with the General Statutes of North Carolina and the general delegations of authority provided for in section II of this policy.

III. Administration of Design and Construction of Certain Capital Improvement Projects. Delegations of the Board of Governors authority for the administration of design and construction of capital improvement projects requiring the estimated expenditure of public money of $2,000,000 or less shall be in accordance with G.S. 116-31.11 and “The University of North Carolina Design and Construction Guidelines.”

IV. Construction Delivery Method Reporting Requirement. In accordance with G.S. 143-133.1, constituent institutions that contract with a construction manager at risk, designer-builder, or private developer under a public-private partnership shall report to the System Office (in a manner prescribed by the president or the president’s designee) the following information within 60 days of award for contracts utilizing such alternative delivery methods:

A. A detailed explanation of the reason why the particular construction manager at risk, design-builder, or private developer was selected;

B. The terms of the contract with the construction manager at risk, design-builder, or private developer;

C. A list of all other firms considered but not selected as the construction manager at risk, design-builder, or private developer;

D. A report on the form of bidding utilized by the construction manager at risk, design-builder, or private developer on the project; and

E. A detailed explanation of why the particular delivery method was used in lieu of the delivery methods identified in G.S. 143-128(a1) subdivisions (1) through (3) and the anticipated benefits to the public entity from using the particular delivery method.
The information shall be collectively reported annually to the Board for all projects awarded during the fiscal year and submitted with the annual report of the Committee on Budget and Finance.

IV. Procedures and Reporting Requirements. The senior vice president for finance and administration shall have general authority to establish such procedures and reporting requirements for constituent institutions and affiliated entities as may be prudent to enable implementation of this policy and associated regulations.

VI. Other Matters

A. Effective Date. The requirements of this policy shall be effective on July 1, 2019. The requirements of this policy shall be effective on the date of adoption by the Board of Governors.

B. Relation to Other Laws. This policy is designed to supplement, and does not purport in any way to supplant or modify, those statutory enactments and rights which may govern capital improvement projects in the State of North Carolina.

C. Regulations and Guidelines. This policy shall be implemented and applied in accordance with such regulations and guidelines as may be adopted by the president.

1This delegation of authority shall be interpreted consistent with G.S. 143C-8-12. See also Appendix 1 to The Code and Section 200.6 of the UNC Policy Manual.
2Unless otherwise indicated by the Board of Governors, this delegation of authority to boards of trustees to approve advance planning efforts shall not be further delegated.
3See endnote 1, above.
4See endnote, 1, above.
Policy on Minimum Eligibility Requirements for Undergraduate Admission for the University of North Carolina System

VIII. Other Matters

A. Effective Date. With the exception of section VI., above, the requirements of this policy shall be effective for all first-time students applying for admission at a constituent institution for any semester beginning with the 2020 fall semester through the 2025 fall semester (including students who attended the institution for the first time in the prior summer term).

B. Relation to Federal and State Laws. The foregoing policy as adopted by the Board of Governors is meant to supplement, and does not purport to supplant or modify, those statutory enactments which may govern or relate to the subject matter of this policy.

C. Regulations and Guidelines. This policy shall be implemented and applied in accordance with such regulations and guidelines as may be adopted from time to time by the president.
Policy on Tuition Rates

*The General Assembly shall provide that the benefits of The University of North Carolina and other public institutions of higher education, as far as practicable, be extended to the people of the State free of expense.* –North Carolina Constitution, Article IX, Section 9

I. Purpose. The North Carolina Constitution sets the parameters for establishing resident tuition rates at the constituent institutions of the University of North Carolina (UNC). The constitutional provisions for setting tuition are codified in North Carolina General Statutes (hereinafter G.S.) 116-11(7), which states, in part, “The Board [of Governors] shall set tuition and required fees at the institutions, not inconsistent with actions of the General Assembly.” This statute governed the setting of tuition rates for both resident and nonresident students from 1971 through 1999, during which time the Board of Governors recommended no tuition increases except as required by session law. In November 1998, the Board adopted a tuition policy, as directed by the General Assembly, which allowed for the consideration of tuition increases as requested by the constituent institutions. These funds are subsequently appropriated by the General Assembly for use by the institution. This policy outlines the framework to be followed by the Board in establishing tuition levels for constituent institutions.\(^2\) Tuition is charged to students enrolled in academic programs during regular terms, summer sessions, or through off-campus instruction, and is used to partially defray the costs of general academic and administrative operations of campuses, including academic programs and faculty and administrative salaries and benefits.

II. General Policy

A. Undergraduate Tuition. The appropriate tuition policy at the undergraduate level encourages students to pursue academic and intellectual interests without regard to program costs. Accordingly, no difference in tuition between undergraduate programs will occur within an institution, and there will be only minimal differences in undergraduate tuition among campuses in similar institutional categories as defined by the Board to reflect both varying missions and contrasting costs of education, or at the direction of the General Assembly, such as the NC Promise program. Deviation in undergraduate tuition among campuses in different institutional categories will be based upon institutional offerings and will be reasonable. Combined tuition and fee rates for undergraduate residents shall be in the bottom quartile of each respective institution’s Board-approved public peers.
B. Graduate and Professional Tuition. The Board will apply Article IX, Section 9 of the North Carolina Constitution to graduate- and professional-level students but with the realization that the costs, sources of funds, and purposes of graduate and professional education are materially different from undergraduate education. The application of what is “practicable” varies by level of instruction for a number of reasons, and those differences will be reflected in the tuition policies associated with each level. Tuition for graduate and professional students will be set with an understanding that tuition revenues may be needed to maintain and increase the excellence of the University’s graduate and professional programs. In setting tuition rates, the Board will consider the need to provide access to these programs for students irrespective of their financial capacity as well as the desire to attract and retain the best students to serve North Carolina’s needs in each field.

C. Nonresident Tuition.

1. Under G.S. 116-144, the Board of Governors is required to set tuition rates for nonresident students at levels “. . . higher than the rates charged residents of North Carolina and comparable to the rates charged nonresident students by comparable public institutions nationwide. . . .” In complying with the statute, the Board will set tuition for nonresident students after considering the results of a review of rates set by comparable public institutions nationwide. Each constituent institution should set a goal to keep its combined undergraduate nonresident tuition and fee rates at or above the third quartile of its respective Board-approved public peers. Nonresident tuition rates should be market driven and cover the full cost of providing a quality education. The Board will further consider the need for tuition remissions for nonresident graduate students when setting tuition rates and tuition remission policies.

2. Constituent institutions are authorized to award tuition remission to certain nonresident graduate students to reduce the tuition rate for these students to the in-state rate. This tuition remission may be given to nonresident graduate students who are awarded a graduate teaching or research assistantship and who are paid a stipend of at least $2,000 per academic year. Individual institutions may also establish higher minimum stipend amounts or additional policies relating to eligibility for tuition remission. The following conditions apply:

   a. Each institution shall limit the granting of tuition remissions to conform with established budgetary limitations.

   b. Each institution may supplement this appropriation from other non-state sources.

   c. Institutions may not provide tuition remissions to all graduate students.

   d. The president shall adopt administrative procedures and regulations for the implementation of the tuition remission.

D. Tuition Rates for Part-time Students. Effective with the fall term of 2021, part-time resident students and part-time nonresident students taking courses within North Carolina are charged the
regular-term tuition rates established by the Board and the tuition rates for these students are implemented on a per-credit-hour basis to be calculated as follows:

1. Part-time undergraduate students shall be charged tuition per credit hour, at a rate equal to the annual undergraduate tuition rate at their institution divided by 24. The per-credit rate shall be capped at 12 credits per semester for fall and spring semesters, meaning undergraduate students shall not be charged for additional credits beyond 12 in a fall or spring semester.

2. Part-time graduate students shall be charged tuition per credit hour, at a rate equal to the annual graduate tuition rate divided by 18. The per-credit rate shall be capped at nine credits for fall and spring semesters, meaning graduate students shall not be charged for additional credits beyond nine per semester in a fall or spring semester.

E. Other Tuition Rates

1. The authority to set tuition rates for nonresident students taking courses outside North Carolina and to approve tuition rates for self-supported summer enrollment is delegated to the president. The president may also grant exceptions to the method by which the tuition rate is implemented on a per-credit-hour basis, provided that the relevant course or program is receipt-supported.

2. Student Exchange Programs. The constituent institutions are authorized to enter into and extend or modify agreements with institutions in other countries to provide for a balanced exchange of students. A UNC student participating in such an exchange shall be charged tuition by the home UNC institution at a rate consistent with the residentiary status the student would otherwise have at the home institution and shall be counted in the official FTE of the home institution in that residentiary status. A foreign student participating in such an exchange agreement shall not be charged tuition by the host UNC institution and shall not be counted in the official FTE of the host UNC institution.

3. Project Kitty Hawk Programs. The authority to set tuition rates for self-supported digital learning programs offered through a partnership with Project Kitty Hawk is delegated to the Project Kitty Hawk, Inc., Board of Directors with approval of the president. The Project Kitty Hawk, Inc., board and the president shall consult the participating constituent institution in establishing tuition rates. Notwithstanding, tuition rates established under this delegated authority for nonresident students shall exceed the resident tuition rate charged for the applicable program.

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1 Supersedes Section 1000.1.1 originally entitled, Establishing Tuition and Fees.
2 Consistent with G.S. 116-143, no tuition or fees may be charged to students in the high school program at the North Carolina School of Science and Mathematics (NCSSM).
3 Per G.S. 116-11(9)(e), digital learning student credit hours provided with the support of Project Kitty Hawk may not be included in the UNC System’s enrollment change request.