

### **Guideline on Creating and Operating Endowment Funds**

North Carolina General Statutes § 116-36 provides a convenient and serviceable basis for the creation and maintenance of endowment funds of the constituent institutions. The law requires each constituent institution to create an endowment fund.

On October 14, 1977, the Board of Governors established the foregoing regulations to assist the creation and operation of endowment funds under N.C.G.S. § 116-36. The board amended these requirements on February 13, 1981. The following is a procedural guide for establishing the endowment fund as required under N.C.G.S. § 116-36(a).

1. The Board of Trustees of the constituent institution should convene and determine the elective members of the endowment board as provided in paragraph A.4. of the regulations. The institutional board should then name for the record all the members, *ex officio* and elective, of the endowment board and declare the endowment board established as required by paragraph A.15.

2. The endowment board should then convene to establish procedures for the execution of business, to include at least specifying a quorum, establishing the necessary vote for transaction of business, and requiring the keeping of minutes, as set forth in paragraph A.4.

3. The institutional board should then direct the chancellor to inventory endowment property of the institution as required under paragraph A.16.

4. All personal property (1) reposing in an endowment fund established pursuant to Section 2 of the Board of Governors resolution of April 11, 1974, entitled "Policies on Endowments," (superseded by the attached resolution) reposing as endowment property in any endowment, trust, or account having no corporate identity other than under N.C.G.S. § 116-3 and (2) not deemed by the chancellor improper for placement in the endowment fund under paragraph A.7., should be presented by the chancellor to the new endowment board as provided in paragraph A.16.

5. All real property (1) reposing in an endowment fund established pursuant to Section 2 of the Board of Governors resolution of April 11, 1974, entitled "Policies on Endowments," (superseded by the attached resolution) or reposing as endowment property in any endowment, trust, or account having no corporate identity other than under N.C.G.S. § 116-3 and (2) not deemed by the chancellor to be improper for placement in the endowment fund under paragraph A.7., should be presented by the chancellor to the institutional Board of Trustees to initiate transfer of the real property to the endowment board according to policies of the Board of Governors, policies of the Council of State, and provisions of N.C.G.S. Chapter 146 concerning disposition of State real property other than by lease or rental. Pursuant to N.C.G.S. § 146-75 the actual transfer must be effected by a deed from "the State of North Carolina" signed by the Governor and attested by the Secretary of State. The grantee should be named "the Board of Trustees of the Endowment Fund of [the constituent institution]." Deeds from the State are normally prepared by the State Property Office in the Department of Administration, Raleigh.

6. Any real property coming expressly to the new endowment board or pursuant to paragraph A.6. coming by presumption on or after June 8, 1977 to the endowment fund may be placed in or transferred into the new endowment fund without reference to N.C.G.S. Chapter 146.

7. As property is presented to the endowment board through the procedures of steps 4 through 6, the endowment board should receive the written inventories and instruments of title of the property, accept by motion the property offered, and make the inventories and motions a part of the minutes of the endowment board.

8. The grantor or transferor of any property from the new endowment fund should be designated "The Board of Trustees of the Endowment Fund of [the constituent institution]." Although conveyances and transfers from the new endowment fund may be executed by the endowment board without reference to N.C.G.S. Chapter 146, the form of pertinent documents should be consistent with requirements of the State Property Office.

9. Conveyances of title or transfers of the useful possession of real property valued at \$50,000 or more among the endowment fund, the institution, and the State of North Carolina would require prior approval of the Board of Governors; but conveyances or transfers of real property valued at \$50,000 or more pursuant to accepting gifts and devises of benefactors at large into the endowment fund or in managing the corpus of the endowment would not require prior approval of the Board of Governors.

[This is a rewrite of Administrative Memoranda #93 and #150.]