



SENATE BILL 195: UNC Omnibus.

2023-2024 General Assembly

Committee:		Date:	June 28, 2023
Introduced by:	Sens. Galey, Barnes, Proctor	Prepared by:	Brian Gwyn* Staff Attorney
Analysis of:	Conference Committee Substitute (S195-CCSBE-1)		

OVERVIEW: *The 2nd edition of Senate Bill 195 would make various changes to the laws concerning The University of North Carolina (UNC), including the following:*

- *Include North Carolina School of Science and Mathematics (NCSSM) in the Distinguished Professors Endowment Fund*
- *Create staggered terms for members of the North Carolina Teaching Fellows Commission*
- *Make changes to tuition grants for NCSSM and UNC School of the Arts.*
- *Require constituent institutions to remain neutral on political controversies of the day.*
- *Exempt certain employees of UNC from the State Human Resources Act.*
- *Allow certain employees of UNC who earned career status by July 1, 2023, to have the option of either keeping career status or waiving it.*
- *Allow certain probationary employees of UNC who were hired before July 1, 2023, to have the option of continuing employment to earn career status or continuing employment as an exempt employee.*
- *Exempt from the State Human Resources Act certain employees of North Carolina A & T State University designated as county operations support staff.*

The Conference Committee Substitute would do the following:

- *Allow certain employees of UNC to have the option of keeping career status or waiving it if they earned career status by September 1, 2023, rather than July 1, 2023.*
- *Allow certain probationary employees of UNC to have the option of continuing employment to earn career status or continuing as an exempt employee if they were hired before September 1, 2023, rather than July 1, 2023.*
- *Make various technical changes.*

PART I. INCLUDE NCSSM IN THE DISTINGUISHED PROFESSORS ENDOWMENT FUND

CURRENT LAW: The Distinguished Professors Endowment Trust Fund (Trust Fund) provides each State university the opportunity to receive and match challenge grants to create endowments for selected distinguished professors to occupy chairs within a university. The associated foundations that serve the universities can solicit and receive gifts from private sources to provide for matching funds to the Trust Fund challenge grants for the endowments. The Trust Fund is maintained by the Board of Governors of The University of North Carolina (UNC BOG) and appropriated to the campuses as directed in the statutes. The current law also sets out different allocations to different classes of constituent institutions such as focused growth institutions and special needs institutions.

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Legislative Analysis
Division
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Senate 195 CCS

Page 2

BILL ANALYSIS: Part I would make technical changes to the Trust Fund statutes and add the North Carolina School of Science and Mathematics to list of "special needs institutions" and thereby eligible for grants from the Trust Fund if it can raise funds through private sources and match the grants as directed by the statutes. For example, for one \$500,000 challenge grant, the special needs institution must raise \$500,000 from private sources.

PART II. CREATE STAGGERED TERMS FOR MEMBERS OF THE NORTH CAROLINA TEACHING FELLOWS COMMISSION

CURRENT LAW: Part 3 of Article 23 of Chapter 116 of the General Statutes establishes the North Carolina Teaching Fellows Program, which provides forgivable loans to individuals who agree to teach in Science, Technology, Engineering, or Mathematics (STEM) or special education licensure areas in North Carolina schools. The Teaching Fellows Program is governed by the North Carolina Teaching Fellows Commission (Commission), which is made up of 14 members. Seven of the members are appointed by the Board of Governors of The University of North Carolina (UNC BOG), two are appointed by the General Assembly, and five serve ex officio. Commission members generally serve two-year terms of office (except for ex officio members) that expire July 1 in odd-numbered years.

BILL ANALYSIS: Part II would require appointments to the Commission by the UNC BOG to be made in even-numbered years and appointments by the General Assembly to be made in odd-numbered years. Terms would expire June 30 rather than July 1. This Part would be effective when it becomes law and would apply to terms beginning July 1, 2023.

PART III. MAKE CHANGES TO TUITION GRANTS FOR NCSSM AND UNCSA

CURRENT LAW: G.S. 116-290.90 authorizes tuition grants for a high school graduate of the North Carolina School of Science or Mathematics (NCSSM) and the University of North Carolina School of the Arts (UNCSA) who meets the following criteria:

- Is a resident for tuition purposes.
- Enrolls as a full-time student in a constituent institution of The University of North Carolina (UNC) in the next academic year after graduation.

To continue to be eligible for the grant in subsequent years, the student must be continuously enrolled. This requirement can be waived if any of the following have substantially disrupted or interrupted the student's pursuit of a degree:

- A military service obligation.
- Serious medical debilitation.
- A short term or long-term disability.
- Other extraordinary hardship.

BILL ANALYSIS: Part III would allow a high school graduate of NCSSM and UNCSA to postpone enrollment in a constituent institution for one year and still receive a tuition grant if any of the hardships already applicable to continuing eligibility have substantially disrupted or interrupted the student's pursuit of a degree, including:

- A military service obligation.
- Serious medical debilitation.
- A short term or long-term disability.

Senate 195 CCS

Page 3

- Other extraordinary hardship.

This Part would be effective May 1, 2022.

PART IV. REQUIRE INSTITUTIONAL NEUTRALITY

CURRENT LAW: G.S. 116-300 requires the Board of Governors of The University of North Carolina to adopt a policy on free expression that includes certain provisions, including that constituent institutions may not take action on public policy controversies of the day in such a way as to require students, faculty, or administrators to publicly express a given view of social policy.

BILL ANALYSIS: Part IV would require constituent institutions of The University of North Carolina to remain neutral on political controversies of the day. Additionally, it would make conforming and clarifying changes.

PART V. EXEMPT CERTAIN FLSA-EXEMPT EMPLOYEES OF THE UNIVERSITY OF NORTH CAROLINA FROM THE STATE HUMAN RESOURCES ACT

CURRENT LAW: State employees are subject to the provisions of the Human Resources Act unless they are specifically exempted from it or from particular provisions. Instructional and research staff, finance professionals, business office professionals, auditor professionals, information technology professionals, physicians, dentists, and faculty of the North Carolina School of Science and Mathematics employed by The University of North Carolina (UNC) are exempt from the Human Resources Act except for the provisions concerning equal employment and compensation (Article 6 of the Human Resources Act) and privacy of personnel records (Article 7 of the Human Resources Act).

A "career State employee" is a State employee who is in a permanent position with a permanent appointment and has been continuously employed for the immediate 12 preceding months. However, employees hired by a State agency, department, or university in a sworn law enforcement position or forensic scientist position who must complete a formal training program before assuming their duties with the hiring agency, department, or university can become career State employee only after being employed for 24 continuous months.

A "probationary State employee" is a State employee who is in a probationary appointment and is exempt from the Human Resources Act only because the employee has not been continuously employed for the required time period.

The Fair Labor Standards Act (FLSA) is a federal law which establishes, among other things, minimum wage and overtime pay eligibility for employees that hold positions determined to be covered under the FLSA. The largest exceptions to FLSA apply to those considered to be professional, administrative, and executive employees.

BILL ANALYSIS: Part V would exempt the following employees of UNC from the Human Resources Act: (i) pilots and (ii) all other employees who are exempt from the FLSA. The UNC Board of Governors would be given the authority to establish the positions that would be exempt from the Act without further review or approval by any other State agency.

Employees of UNC who are exempt from the FLSA and have attained career status before September 1, 2023, would have the option of one of the following:

Senate 195 CCS

Page 4

- Continuing employment with career State employee status if the employee remains in the position the employee occupied on June 30, 2023; OR
- Waiving career State employee status and continuing employment as a State employee exempt from the Human Resources Act.

Additionally, probationary State employees of UNC who are exempt from the FLSA and were hired before September 1, 2023, would have the option of one of the following:

- Continuing employment for the required time period and earning career State employee status; OR
- Continuing employment as a State employee exempt from the Human Resources Act.

Each affected employee would be required to be provided with a written explanation of the impact of an election to waive or decline career State employee status. The employee's election to waive or decline career State employee status must be acknowledged through the employee's written or electronic signature within 60 days.

PART VI. EXEMPT FROM THE STATE HUMAN RESOURCES ACT CERTAIN EMPLOYEES OF NORTH CAROLINA AGRICULTURAL AND TECHNICAL STATE UNIVERSITY DESIGNATED AS COUNTY OPERATIONS SUPPORT STAFF

CURRENT LAW: State employees are subject to the provisions of North Carolina Human Resources Act (Human Resources Act) unless they are specifically exempted from it or from particular provisions of the Act. Employees of the North Carolina Cooperative Extension Service (Extension Service) of North Carolina State University (NCSU) who are employed by county operations are exempt from the Human Resources Act except for the provisions concerning equal employment and compensation (Article 6 of the Human Resources Act) and privacy of personnel records (Article 7 of the Human Resources Act). The Board of Trustees of NCSU adopts policies to govern the employment of the Extension Service employees employed in county operations.

Counties may support the Extension Service by appropriating revenues not otherwise limited as to use by the law.

BILL ANALYSIS: Part VI would add employees of North Carolina Agricultural and Technical State University (NC A&T) Cooperative Extension Service who are employed in county operations to the exemption from the Human Resources Act in the same manner as the NCSU Extension Service employees. This Part would further allow the Board of Trustees of NC A&T to adopt policies to govern the employment of these employees.

EFFECTIVE DATE: Except as otherwise provided, the bill would be effective when it becomes law.

**Drupti Chauhan, Staff Attorney with the Legislative Analysis Division, substantially contributed to this summary.*