

**Chapter 115D.**  
**Community Colleges.**

Article 1.

General Provisions for State Administration.

**§ 115D-1. Statement of purpose.**

The purposes of this Chapter are to provide for the establishment, organization, and administration of a system of educational institutions throughout the State offering courses of instruction in one or more of the general areas of two-year college parallel, technical, vocational, and adult education programs, to serve as a legislative charter for such institutions, and to authorize the levying of local taxes and the issuing of local bonds for the support thereof. The major purpose of each and every institution operating under the provisions of this Chapter shall be and shall continue to be the offering of vocational and technical education and training, and of basic, high school level, academic education needed in order to profit from vocational and technical education, for students who are high school graduates or who are beyond the compulsory age limit of the public school system and who have left the public schools, provided, juveniles of any age committed to the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety by a court of competent jurisdiction may, if approved by the director of the youth development center to which they are assigned, take courses offered by institutions of the system if they are otherwise qualified for admission.

The Community Colleges System Office is designated as the primary lead agency for delivering workforce development training, adult literacy training, and adult education programs in the State. (1963, c. 448, s. 23; 1969, c. 562, s. 1; 1979, c. 462, s. 2; 1985, c. 479, s. 68; 1997-443, s. 11A.118(a); 1998-202, s. 4(p); 2000-137, s. 4(s); 2001-95, s. 5; 2005-77, s. 1; 2011-145, s. 19.1(l); 2017-186, s. 2(ggggg).)

**§ 115D-1.1:** Repealed by Session Laws 2011-145, s. 7.1A(f), effective January 1, 2012.

**§ 115D-1.2:** Repealed by Session Laws 2011-145, s. 7.1A(f), effective January 1, 2012.

**§ 115D-1.3. Accreditation of secondary school located in North Carolina shall not be a factor in admissions, loans, scholarships, or other educational policies.**

(a) For purposes of this section, the term "accreditation" shall include certification or any other similar approval process.

(b) The State Board of Community Colleges shall adopt a policy that prohibits any community college from soliciting or using information regarding the accreditation of a secondary school located in North Carolina that a person attended as a factor affecting admissions, loans, scholarships, or other educational activity at the community college, unless the accreditation was conducted by a State agency. (2011-306, s. 2.)

**§ 115D-2. Definitions.**

As used in this Chapter:

- (1) The "administrative area" of an institution comprises the county or counties directly responsible for the local financial support and local administration of such institution as provided in this Chapter.

- (2) The term "community college" is defined as an educational institution operating under the provisions of this Chapter and dedicated primarily to the educational needs of the service area which it serves, and may offer
  - a. The freshmen and sophomore courses of a college of arts and sciences, authorized by G.S. 115D-4.1;
  - b. Organized credit curricula for the training of technicians; curricular courses may carry transfer credit to a senior college or university where the course is comparable in content and quality and is appropriate to a chosen course of study;
  - c. Vocational, trade, and technical specialty courses and programs, and
  - d. Courses in general adult education.
- (3) The term "institution" refers to any institution established pursuant to this Chapter.
- (4) The term "regional institution" means an institution whose service area as assigned by the State Board of Community Colleges includes three or more counties; provided, however, any institution receiving funds as a regional institution on May 1, 1987, shall continue to receive funds on that basis.
- (5) The term "State Board" refers to the State Board of Community Colleges.
- (6) The "tax-levying authority" of an institution is the board of commissioners of the county or all of the boards of commissioners of the counties, jointly, which constitute the administrative area of the institution.
- (7) Repealed by Session Laws 1987, c. 564, s. 1.
- (8) "Vending facilities" has the same meaning as it does in G.S. 111-42(d), but also means any mechanical or electronic device dispensing items or something of value or entertainment or services for a fee, regardless of the method of activation, and regardless of the means of payment, whether by coin, currency, tokens, or other means. (1963, c. 448, s. 23; 1969, c. 562, s. 2; 1973, c. 590, s. 1; 1979, c. 462, s. 2; c. 553; c. 896, s. 1; 1979, 2nd Sess., c. 1130, s. 1; 1983, c. 761, s. 104; 1983 (Reg. Sess., 1984), c. 1034, s. 169; 1987, c. 564, s. 1; 1999-84, s. 1; 2005-103, s. 4; 2006-203, s. 35.)

**§ 115D-2.1. State Board of Community Colleges.**

- (a) The State Board of Community Colleges is established.
- (b) The State Board of Community Colleges shall consist of 21 members, as follows:
  - (1) The Lieutenant Governor or the Lieutenant Governor's designee shall be a member ex officio.
  - (2) The Treasurer of North Carolina or the Treasurer's designee shall be a member ex officio.
  - (3) The Governor shall appoint to the State Board four members from the State at large and one member from each of the six Trustee Association Regions defined in G.S. 115D-62. The initial appointments by the Governor shall be made effective July 1, 1980, or as soon as feasible thereafter. In order to establish regularly overlapping terms, the initial appointments by the Governor shall be made so that three expire June 30, 1981, three expire June 30, 1983, and four expire June 30, 1985. Each

subsequent regular appointment by the Governor shall be for a term of six years and until a successor is appointed and qualifies. Any vacancy occurring among his appointees before the expiration of term shall be filled by appointment of the Governor; the member so appointed shall meet the same residential qualification, if any, as the member whom he succeeds and shall serve for the remainder of the unexpired term of that member.

- (4) The General Assembly shall elect eight members of the State Board from the State at large in the following manner:
- a. In 1980, the Senate shall elect three members, one of whom shall serve a term expiring June 30, 1981, one of whom shall serve a term expiring June 30, 1983, and one of whom shall serve a term expiring June 30, 1985. In 1985, the Senate shall elect two members to serve terms expiring June 30, 1991. Each subsequent regular election by the Senate shall be for a term of six years and until a successor is elected and qualifies.
  - b. In 1980, the House of Representatives shall elect four members, one of whom shall serve a term expiring June 30, 1981, one of whom shall serve a term expiring June 30, 1983, and two of whom shall serve a term expiring June 30, 1985. In 1985, the House of Representatives shall elect two members, to serve terms expiring June 30, 1991. Each subsequent regular election by the House of Representatives shall be for a term of six years and until a successor is elected and qualifies.
  - c. Repealed by Session Laws 1985, c. 227, s. 5.
  - d. The initial elections by the two houses of the General Assembly shall be held on or before July 1, 1980.
  - e. Any vacancy occurring among the members elected by the two houses of the General Assembly before the expiration of term shall be filled when the General Assembly next convenes. The member then elected shall be elected by the same house that elected the member whom he succeeds, and shall serve for the remainder of the unexpired term of that member.
  - f. At each session of the General Assembly held in an odd-numbered year, the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall assign to either a standing or a special committee of that house the duty of receiving from the members of that house nominations of persons to be considered by that house for election to the State Board. The chairmen of the two committees shall jointly determine a common final date for receiving nominations from members of that house, and a common date for reporting to their respective houses their nominations for the State Board. Each committee shall screen the

proposed candidates for nomination as to their qualifications, background, lack of statutory disabilities, and willingness and ability to serve if elected. Each Senator and each Representative may nominate only one candidate. When the nominating process is closed, each committee shall list all candidates and shall separately vote "aye" or "no" on each candidate to determine whether that person shall be listed as a nominee of the committee. The verbal vote of a majority of those members of the committee present and voting shall constitute one nominee of the committee. An individual cannot be a candidate for nomination to more than one place. If a sufficient number of candidates is submitted to each committee, then each committee shall nominate at least two persons for each place to be filled by that chamber, otherwise each committee shall nominate at least one person for each place to be filled by each of the House of Representatives and the Senate. No person may simultaneously be a candidate for election by both houses, and if one is nominated in both houses, he shall determine by which house he shall be nominated and so advise the chairman of both committees. The two houses shall, by joint resolution, fix a common date and time for the election of members of the State Board. At the election session in each house, the committee shall report its list of nominees with the term of office indicated for each nominee. The ballot in the House of Representatives shall also include the names of all other persons nominated by a member of that house who are determined by the committee to be qualified for the offices, with the committee's list of nominees being clearly set out on the ballot. No additional nominations shall be received from the floor. Each house shall then proceed to an election of the State Board. In order to be chosen, a nominee shall receive the votes of a majority of all members present and voting.

When each house has chosen one person for each place to be filled on the State Board, the chairman of the committee shall make a motion for the simultaneous election of those persons by that house to the indicated positions and for the indicated terms. The vote shall then be called electronically. If a majority of those voting shall vote "aye," persons named in the motion shall be declared to have been elected. Each house may adopt rules consistent with this section with respect to the election by that house of members of the State Board.

- (5) The person serving as president of the North Carolina Comprehensive Community College Student Government Association shall be an ex officio member of the State Board. If the president of the Association is unable for any reason to serve as the student member of the State Board,

then pursuant to the constitution of the Association, the vice-president of the Association shall serve as the student member of the State Board. Any person serving as the student member of the State Board must be a student in good standing at a North Carolina community college. The student member of the State Board shall have all the rights and privileges of membership, except that the student member shall not have a vote.

(b1) Upon receipt of a referral from the State Ethics Commission in accordance with G.S. 138A-12(m) concerning a member of the State Board of Community Colleges, the principal clerk of the house of the General Assembly receiving the referral shall immediately refer the matter to the appropriate education committee of that house. That committee may recommend to that house a resolution providing for the removal of the Board member. If the committee's proposed resolution is adopted by a majority of the members present and voting of that house, the public servant shall be removed and the seat previously held by that Board member becomes vacant.

(c) No person may be appointed or elected to more than two consecutive terms of six years on the State Board.

(d) No member of the General Assembly, no officer or employee of the State, and no officer or employee of an institution under the jurisdiction of the State Board shall be eligible to serve on the State Board. No spouse of a member of the General Assembly or of an officer or employee of the Community College System or of an institution under the jurisdiction of the State Board shall be eligible to serve on the State Board. No person who within the prior five years has been an employee of the Community Colleges System Office shall be eligible to serve on the State Board.

(e) The Governor shall convene the membership of the State Board on July 1, 1980, or as soon as feasible thereafter. The State Board at that meeting shall elect from its appointed or elected membership a chairman and such other officers as it may deem necessary.

(f) At its first meeting after July 1, 1981, and every two years thereafter, the State Board shall elect from its membership a chairman and such other officers as it may deem necessary.

(g) The State Board of Community Colleges shall meet at stated times established by the State Board, but not less frequently than 10 times a year. The State Board of Community Colleges shall also meet with the State Board of Education and the Board of Governors of The University of North Carolina at least once a year to discuss educational matters of mutual interest and to recommend to the General Assembly such policies as are appropriate to encourage the improvement of public education at every level in this State; these joint meetings shall be hosted by the three Boards according to the schedule set out in G.S. 115C-11(b1). Special meetings of the State Board may be set at any regular meeting or may be called by the chairman. A majority of the qualified members of the State Board shall constitute a quorum for the transaction of business.

(h) Whenever any vacancy shall occur in the appointed membership of the State Board, the chairman shall inform the appropriate appointing authority of the vacancy.

(i) The State Board of Community Colleges may declare vacant the office of an appointed or elected member who does not attend three consecutive scheduled meetings without justifiable excuse. The chairman of the State Board shall notify the appropriate appointing or electing authority of any vacancy. (1979, c. 896, s. 2; 1979, 2nd Sess., c. 1130, s. 5; 1981, c. 47, s. 8; c. 474; 1983, c. 311; c. 479, ss. 1-3; 1985, c. 227, ss. 1-5; c. 428; 1987 (Reg. Sess., 1988), c. 1102, s. 2; 1991, c. 83, s. 1; 1993, c. 69, s. 2; 1995, c. 192, s. 1; c. 470, ss. 3, 4; 1997-456, ss. 18, 19; 1999-61, ss. 1, 2; 1999-84, s. 7; 2006-31, s. 1; 2006-201, s. 2(c); 2007-278, s. 3; 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

**§ 115D-3. Community Colleges System Office; staff.**

The Community Colleges System Office shall be a principal administrative department of State government under the direction of the State Board of Community Colleges, and shall be separate from the free public school system of the State, the State Board of Education, and the Department of Public Instruction. The State Board has authority to adopt and administer all policies, regulations, and standards which it deems necessary for the operation of the System Office.

The State Board shall elect a President of the North Carolina System of Community Colleges who shall serve as chief administrative officer of the Community Colleges System Office. The compensation of this position shall be fixed by the State Board from funds provided by the General Assembly in the Current Operations Appropriations Act.

The President shall be assisted by such professional staff members as may be deemed necessary to carry out the provisions of this Chapter, who shall be elected by the State Board on nomination of the President. The compensation of the staff members elected by the Board shall be fixed by the State Board of Community Colleges, upon recommendation of the President of the Community College System, from funds provided in the Current Operations Appropriations Act. These staff members shall include such officers as may be deemed desirable by the President and State Board. 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 State Board. In addition, the President shall be assisted by such other employees as may be needed to carry out the provisions of this Chapter, who shall be subject to the provisions of Chapter 126 of the General Statutes. The staff complement shall be established by the State 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. The State Board of Community Colleges shall have all other powers, duties, and responsibilities delegated to the State Board of Education affecting the Community Colleges System Office not otherwise stated in this Chapter. (1963, c. 448, s. 23; 1971, c. 1244, s. 14; 1975, c. 699, s. 5; 1979, c. 462, s. 2; c. 896, s. 3; 1979, 2nd Sess., c. 1130, ss. 1, 2; 1981, c. 859, s. 35.2; 1983, c. 479, s. 4; c. 717, s. 26; 1983 (Reg. Sess., 1984), c. 1034, s. 164; 1985 (Reg. Sess., 1986), c. 955, ss. 19, 20; 1987, c. 564, s. 2; 1993, c. 522, s. 6; 1999-84, s. 8.)

**§ 115D-4. Establishment of institutions.**

The establishment of all community colleges shall be subject to the approval of the General Assembly upon recommendation of the State Board of Community Colleges. In no case, however, shall favorable recommendation be made by the State Board for the establishment of an institution until it has been demonstrated to the satisfaction of the State Board that a genuine educational need exists within a proposed administrative area, that existing public and private post-high school institutions in the area will not meet the need, that adequate local financial support for the institution will be provided, that public schools in the area will not be affected adversely by the local financial support required for the institution, and that funds sufficient to provide State financial support of the institution are available. (1963, c. 448, s. 23; 1965, c. 1028; 1971, c. 1244, s. 14; 1977, c. 154, s. 1; 1979, c. 462, s. 2; c. 896, s. 4; 1979, 2nd Sess., c. 1130, s. 1; 1983, c. 717,

ss. 27-27.2; 1985 (Reg. Sess., 1986), c. 955, s. 21; 1987, c. 564, s. 3; 2006-203, s. 36; 2009-229, s. 1.)

**§ 115D-4.1. College transfer program approval; standards for programs.**

(a) Repealed by Session Laws 1995, c. 288, s. 1, effective September 1, 1995.

(b) The State Board of Community Colleges may approve the addition of the college transfer program to a community college. If addition of the college transfer program to an institution would require a substantial increase in funds, State Board approval shall be subject to appropriation of funds by the General Assembly for this purpose.

(c) Addition of the college transfer program shall not decrease an institution's ability to provide programs within its basic mission of vocational and technical training and basic academic education.

(d) The State Board of Community Colleges shall develop appropriate criteria and standards to regulate the addition of the college transfer program to institutions.

(e) The State Board of Community Colleges shall develop appropriate criteria and standards to regulate the operation of college transfer programs.

(f) The Board of Governors of The University of North Carolina shall report to each community college and to the State Board of Community Colleges in accordance with G.S. 116-11(10b) on the academic performance of that community college's transfer students. If the State Board of Community Colleges finds that college transfer students from a community college are not consistently performing adequately at a four-year college, the Board shall review the community college's program and determine what steps are necessary to remedy the problem. The Board shall report annually to the General Assembly on the reports it receives and on what steps it is taking to remedy problems that it finds. (1987, c. 564, s. 4; 1995, c. 288, s. 1; 1999-84, s. 2; 2011-145, s. 8.2(a).)

**§ 115D-5. Administration of institutions by State Board of Community Colleges; personnel exempt from North Carolina Human Resources Act; extension courses; tuition waiver; in-plant training; contracting, etc., for establishment and operation of extension units of the community college system; use of existing public school facilities.**

(a) The State Board of Community Colleges may adopt and execute such policies, regulations and standards concerning the establishment, administration, and operation of institutions as the State Board may deem necessary to insure the quality of educational programs, to promote the systematic meeting of educational needs of the State, and to provide for the equitable distribution of State and federal funds to the several institutions.

The State Board of Community Colleges shall establish standards and scales for salaries and allotments paid from funds administered by the State Board, and all employees of the institutions shall be exempt from the provisions of the North Carolina Human Resources Act. Any and all salary caps set by the State Board for community college presidents shall apply only to the State-paid portion of the salary. Except as otherwise provided by law, the employer contribution rate on the local-paid portion of the salary, to be paid from local funds, shall be set by the State Treasurer based on actuarial recommendations. The State Board shall have authority with respect to individual institutions: to approve sites, capital improvement projects, budgets; to approve the selection of the chief administrative officer; to establish and administer standards for professional personnel, curricula, admissions, and graduation; to regulate the awarding of degrees, diplomas,

and certificates; to establish and regulate student tuition and fees within policies for tuition and fees established by the General Assembly; and to establish and regulate financial accounting procedures.

The State Board of Community Colleges shall require all community colleges to meet the faculty credential requirements of the Southern Association of Colleges and Schools for all community college programs.

(a1) Notwithstanding G.S. 66-58(c)(3) or any other provisions of law, the State Board of Community Colleges may adopt rules governing the expenditure of funds derived from bookstore sales by community colleges. These expenditures shall be consistent with the mission and purpose of the Community College System. Profits may be used in the support and enhancement of the bookstores, for student aid or scholarships, for expenditures of direct benefit to students, and for other similar expenditures authorized by the board of trustees, subject to rules adopted by the State Board. These funds shall not be used to supplement salaries of any personnel.

(a2) The State Board of Community Colleges shall comply with the provisions of G.S. 116-11(10a) to plan and implement an exchange of information between the public schools and the institutions of higher education in the State.

(a3) The State Board of Community Colleges shall adopt the following rules to assist community colleges in their administration of procedures necessary to implement G.S. 20-11 and G.S. 20-13.2:

- (1) To establish the procedures a person who is or was enrolled in a community college must follow and the requirements that person must meet to obtain a driving eligibility certificate.
- (2) To require the person who is required under G.S. 20-11(n) to sign the driving eligibility certificate to provide the certificate if he or she determines that one of the following requirements is met:
  - a. The person seeking the certificate is eligible for the certificate under G.S. 20-11(n)(1) and is not subject to G.S. 20-11(n1).
  - b. The person seeking the certificate is eligible for the certificate under G.S. 20-11(n)(1) and G.S. 20-11(n1).
- (3) To provide for an appeal through the grievance procedures established by the board of trustees of each community college by a person who is denied a driving eligibility certificate.
- (4) To define exemplary student behavior and to define what constitutes the successful completion of a drug or alcohol treatment counseling program.

The State Board also shall develop policies as to when it is appropriate to notify the Division of Motor Vehicles that a person who is or was enrolled in a community college no longer meets the requirements for a driving eligibility certificate. The State Board also shall adopt guidelines to assist the presidents of community colleges in their designation of representatives to sign driving eligibility certificates.

The State Board shall develop a form for the appropriate individuals to provide their written, irrevocable consent for a community college to disclose to the Division of Motor Vehicles that the student no longer meets the conditions for a driving eligibility certificate under



G.S. 20-11(n)(1) or G.S. 20-11(n1), if applicable, in the event that this disclosure is necessary to comply with G.S. 20-11 or G.S. 20-13.2. Other than identifying under which statutory subsection the student is no longer eligible, no other details or information concerning the student's school record shall be released pursuant to this consent.

(b) In order to make instruction as accessible as possible to all citizens, the teaching of curricular courses and of noncurricular extension courses at convenient locations away from institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata portion of the established regular tuition rate charged a full-time student shall be charged a part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of Community Colleges shall establish a uniform registration fee, or a schedule of uniform registration fees, to be charged students enrolling in extension courses for which instruction is financed primarily from State funds. The State Board of Community Colleges may provide by general and uniform regulations for waiver of tuition and registration fees for the following:

- (1) Persons not enrolled in elementary or secondary schools taking courses leading to a high school diploma or equivalent certificate.
- (2) Courses requested by the following entities that support the organizations' training needs and are on a specialized course list approved by the State Board of Community Colleges:
  - a. Volunteer fire departments.
  - b. Municipal, county, or State fire departments.
  - c. Volunteer EMS or rescue and lifesaving departments.
  - d. Municipal, county, or State EMS or rescue and lifesaving departments.
  - d1. Law enforcement, fire, EMS or rescue and lifesaving entities serving a lake authority that was created by a county board of commissioners prior to July 1, 2012.
  - e. Radio Emergency Associated Communications Teams (REACT) under contract to a county as an emergency response agency.
  - f. Municipal, county, or State law enforcement agencies.
  - g. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the training of full-time custodial employees and employees of the Division required to be certified under Article 1 of Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards Commission.
  - h. Repealed by Session Laws 2017-186, s. 2(hhhhh), effective December 1, 2017.
  - i. The Eastern Band of Cherokee Indians law enforcement, fire, EMS or rescue and lifesaving tribal government departments or programs.
  - j. The Criminal Justice Standards Division of the Department of Justice for the training of criminal justice professionals, as defined in G.S. 17C-20(6), who are required to be certified under (i) Article 1 of Chapter 17C of the General Statutes and the rules of

the North Carolina Criminal Justice Education and Training Standards Commission or (ii) Chapter 17E of the General Statutes and the rules of the North Carolina Sheriffs' Education and Training Standards Commission. The waivers provided for in this sub-subdivision apply to participants and recent graduates of the North Carolina Criminal Justice Fellows Program to obtain certifications for eligible criminal justice professions as defined in G.S. 17C-20(6).

- (2a) Firefighters, EMS personnel, and rescue and lifesaving personnel whose duty station is located on a military installation within North Carolina for courses that support their organizations' training needs and are approved for this purpose by the State Board of Community Colleges.
- (3) Repealed by Session Laws 2011-145, s. 8.12(a), effective July 1, 2011.
- (4) Trainees enrolled in courses conducted under the Customized Training Program.
- (5) through (9) Repealed by Session Laws 2011-145, s. 8.12(a), effective July 1, 2011.
- (10) Elementary and secondary school employees enrolled in courses in first aid or cardiopulmonary resuscitation (CPR).
- (11) Repealed by Session Laws 2013-360, s. 10.6, effective July 1, 2013.
- (12) All courses taken by high school students at community colleges, in accordance with G.S. 115D-20(4) and this section.
- (13) Human resources development courses for any individual who (i) is unemployed; (ii) has received notification of a pending layoff; (iii) is working and is eligible for the Federal Earned Income Tax Credit (FEITC); or (iv) is working and earning wages at or below two hundred percent (200%) of the federal poverty guidelines.
- (14) Repealed by Session Laws 2011-145, s. 8.12(a), effective July 1, 2011.
- (15) Courses providing employability skills, job-specific occupational or technical skills, or developmental education instruction to certain students who are concurrently enrolled in an eligible community college literacy course, in accordance with rules adopted by the State Board of Community Colleges.
- (16) Courses provided to students who are participating in a pre-apprenticeship or apprenticeship program that meets all of the following criteria:
  - a. Meets one of the following:
    - 1. Is a registered apprenticeship program recognized by the United States Department of Labor.
    - 2. Is a pre-apprenticeship program recognized and approved by the State agency administering the statewide apprenticeship program.

- b. Has a documented plan of study with courses relating to a job-specific occupational or technical skill.
- c. Requires the participants in the program to be North Carolina high school students when entering the program.

The State Board of Community Colleges shall not waive tuition and registration fees for other individuals.

(b1) The State Board of Community Colleges shall not waive tuition and registration fees for community college faculty or staff members. Community colleges may, however, use State or local funds to pay tuition and registration fees for one course per semester for full-time community college faculty or staff members employed for a nine-, ten-, eleven-, or twelve-month term. Community colleges may also use State and local funds to pay tuition and registration fees for professional development courses and for other courses consistent with the academic assistance program authorized by the State Human Resources Commission.

(b2) Beginning February 1, 2018, and annually thereafter, the Community Colleges System Office shall report to the Joint Legislative Education Oversight Committee on the number and type of waivers granted pursuant to subsection (b) of this section.

(c) No course of instruction shall be offered by any community college at State expense or partial State expense to any captive or co-opted group of students, as defined by the State Board of Community Colleges, without prior approval of the State Board of Community Colleges. All course offerings approved for State prison inmates must be tied to clearly identified job skills, transition needs, or both. Approval by the State Board of Community Colleges shall be presumed to constitute approval of both the course and the group served by that institution. The State Board of Community Colleges may delegate to the President the power to make an initial approval, with final approval to be made by the State Board of Community Colleges. A course taught without such approval will not yield any full-time equivalent students, as defined by the State Board of Community Colleges.

(c1) Community colleges shall report full-time equivalent (FTE) student hours for correction education programs on the basis of contact hours rather than student membership hours. No community college shall operate a multi-entry/multi-exit class or program in a prison facility, except for a literacy class or program.

The State Board shall work with the Division of Adult Correction and Juvenile Justice of the Department of Public Safety on offering classes and programs that match the average length of stay of an inmate in a prison facility.

(d) Recodified as G.S. 115D-5.1(a) by Session Laws 2005-276, s. 8.4(a), effective July 1, 2005.

(e) Repealed by Session Laws 1999-84, s. 3, effective May 21, 1999.

(f) A community college may not offer a new program without the approval of the State Board of Community Colleges except that approval shall not be required if the tuition for the program will fully cover the cost of the program. If at any time tuition fails to fully cover the cost of a program that falls under the exception, the program shall be discontinued unless approved by the State Board of Community Colleges. If a proposed new program would serve more than one community college, the State Board of Community Colleges shall perform a feasibility study prior to acting on the proposal. The State Board of Community Colleges shall consider whether a regional approach can be used when developing new programs and, to the extent possible, shall initiate new programs on a regional basis.

The State Board of Community Colleges shall collect data on an annual basis on all new programs and program terminations it approved and any regionalization of programs during the year, including the specific reasons for which each program was terminated or approved.

(g) Funds appropriated to the Community Colleges System Office as operating expenses for allocation to the institutions comprising the North Carolina Community College System shall not be used to support recreation extension courses. The financing of these courses by any institution shall be on a self-supporting basis, and membership hours produced from these activities shall not be counted when computing full-time equivalent students (FTE) for use in budget-funding formulas at the State level.

(h) Whenever a community college offers real estate continuing education courses pursuant to G.S. 93A-4.1, the courses shall be offered on a self-supporting basis.

(i) Recodified as G.S. 115D-5.1(c) by Session Laws 2005-276, s. 8.4(a), effective July 1, 2005.

(j) The State Board of Community Colleges shall use its Board Reserve Fund for feasibility studies, pilot projects, start-up of new programs, and innovative ideas.

(k) Recodified as G.S. 115D-5.1(b) by Session Laws 2005-276, s. 8.4(a), effective July 1, 2005.

(l) The State Board shall review and approve lease purchase and installment purchase contracts as provided under G.S. 115D-58.15(b). The State Board shall adopt policies and procedures governing the review and approval process.

(m) The State Board of Community Colleges shall maintain an accountability function that conducts periodic reviews of each community college operating under the provisions of this Chapter. The purpose of the compliance review shall be to ensure that (i) data used to allocate State funds among community colleges is reported accurately to the System Office and (ii) community colleges are charging and waiving tuition and registration fees consistent with law. The State Board of Community Colleges shall require the use of a statistically valid sample size in performing compliance reviews of community colleges. All compliance review findings that are determined to be material shall be forwarded to the college president, local college board of trustees, the State Board of Community Colleges, and the State Auditor. The State Board of Community Colleges shall adopt rules governing the frequency, scope, and standard of materiality for compliance reviews.

(n) The North Carolina Community Colleges System Office shall provide the Department of Revenue with a list of all community colleges, including name, address, and other identifying information requested by the Department of Revenue. The North Carolina Community Colleges System Office shall update this list whenever there is a change.

(o) All multicampus centers approved by the State Board of Community Colleges shall receive funding under the same formula. The State Board of Community Colleges shall not approve any additional multicampus centers without identified recurring sources of funding.

(p) The North Carolina Community College System may offer courses, in accordance with Article 17D of Subchapter V of Chapter 115C of the General Statutes, to individuals who choose to enter the teaching profession through residency licensure.

(q) Repealed by Session Laws 2009-451, s. 8.9, effective July 1, 2009.

(r) The State Board of Community Colleges shall develop curriculum and continuing education standards for courses of instruction in American Sign Language and shall encourage community colleges to offer courses in American Sign Language as a modern foreign language.

(s) The State Board of Community Colleges may establish, retain and budget fees charged to students taking an adult high school equivalency diploma test, including fees for retesting. Fees collected for this purpose shall be used only to (i) offset the costs of the test, including the cost of scoring the test, (ii) offset the costs of printing adult high school equivalency diplomas, and (iii) meet federal and State reporting requirements related to the test.

(t) The purpose of the first semester of the Gateway to College Program is to address additional support to successfully complete the program. Students may need to take developmental courses necessary for the transition to more challenging courses; therefore, the State Board of Community Colleges shall (i) permit high school students who are enrolled in Gateway to College Programs to enroll in developmental courses based on an assessment of their individual student needs by a high school and community college staff team and (ii) include this coursework in computing the budget FTE for the colleges.

(u) The State Board of Community Colleges shall direct each community college to adopt a policy that authorizes a minimum of two excused absences each academic year for religious observances required by the faith of a student. The policy may require that the student provide written notice of the request for an excused absence a reasonable time prior to the religious observance. The policy shall also provide that the student shall be given the opportunity to make up any tests or other work missed due to an excused absence for a religious observance.

(v) Community colleges may teach curriculum courses at any time during the year, including the summer term. Student membership hours from these courses shall be counted when computing full-time equivalent students (FTE) for use in budget funding formulas at the State level.

(w) The State Board of Community Colleges shall review, at least every five years, service areas that include counties assigned to more than one community college to determine the feasibility of continuing to assign those counties to more than one community college. The State Board shall revise service areas as needed to ensure that counties are served effectively. The first review and any revisions shall be completed no later than March 1, 2016, and the State Board shall report its findings and any revisions to the Joint Legislative Education Oversight Committee no later than March 1, 2016. All subsequent reviews and revisions shall also be submitted to the Committee.

(x) In addition to the evaluation of cooperative innovative high schools by the State Board of Education pursuant to G.S. 115C-238.55, the State Board of Community Colleges, in conjunction with the State Board of Education and the Board of Governors of The University of North Carolina, shall evaluate the success of students participating in the Career and College Promise Program, including the College Transfer pathway and the Career and Technical Education pathway. Success shall be measured by high school retention rates, high school completion rates, high school dropout rates, certification and associate degree completion, admission to four-year institutions, postgraduation employment in career or study-related fields, and employer satisfaction of employees who participated in the programs. The Boards shall jointly report by March 15 of each year to the Joint Legislative Education Oversight Committee. The report shall be combined with the evaluation of cooperative innovative high schools required by G.S. 115C-238.55, and the Community Colleges System Office shall be responsible for submitting the combined report to the Committee.

(y) The State Board of Community Colleges shall adopt a policy to be applied uniformly throughout the Community College System to provide that any student enrolled in a community college who is a National Guard service member placed onto State active duty status during an

academic term shall be given an excused absence for the period of time the student is on active duty. The policy shall further provide all of the following:

- (1) The student shall be given the opportunity to make up any test or other work missed during the excused absence.
- (2) The student shall be given the option, when feasible, to continue classes and coursework during the academic term through online participation for the period of time the student is placed on active duty.
- (3) The student shall be given the option of receiving a temporary grade of "incomplete (IN)" or "absent from the final exam (AB)" for any course that the student was unable to complete as a result of being placed on State active duty status; however, the student must complete the course requirements within the period of time specified by the community college to avoid receiving a failing grade for the course.
- (4) The student shall be permitted to drop, with no penalty, any course that the student was unable to complete as a result of being placed on State active duty status. (1963, c. 488, s. 23; 1967, c. 652; 1969, c. 1294; 1973, c. 768; 1975, c. 882; 1977, c. 1065; 1979, c. 462, s. 2; c. 896, ss. 5-7; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 609; c. 859, s. 35.1; c. 897; c. 1127, s. 43; 1983, c. 717, s. 28; 1983 (Reg. Sess., 1984), c. 1034, ss. 45, 46; 1985, c. 479, s. 67; 1985 (Reg. Sess., 1986), c. 955, s. 22; 1987, c. 282, s. 34; c. 564, ss. 8-10, 12, 33; c. 763, s. 1; 1989, c. 162; 1989 (Reg. Sess., 1990), c. 915, s. 1; c. 1066, s. 91; 1991, c. 689, ss. 44, 48; 1991 (Reg. Sess., 1992), c. 880, s. 4; 1993, c. 170, s. 2; c. 321, ss. 111, 117(e); c. 492, s. 2; 1993 (Reg. Sess., 1994), c. 769, s. 18.4; 1995, c. 288, s. 2; c. 324, s. 16.4; 1996, 2nd Ex. Sess., c. 18, ss. 17.4, 17.7(a); 1997-443, ss. 9.5, 9.6(a), 11A.118(a); 1997-507, s. 4; 1998-111, s. 3; 1998-202, s. 4(q); 1999-84, ss. 3, 9; 1999-243, s. 9; 2000-137, s. 4(t); 2001-111, s. 1; 2001-427, s. 9(b); 2001-487, s. 47(e); 2004-124, s. 8.4; 2005-193, s. 1; 2005-198, s. 3; 2005-247, s. 3; 2005-276, ss. 8.4(a), 8.6; 2005-395, s. 25; 2006-203, s. 37; 2007-154, s. 2(a); 2007-484, ss. 29(a), 35; 2008-107, ss. 8.11, 8.17, 8.18; 2009-208, s. 1; 2009-451, ss. 8.8, 8.9, 8.11(d), (e); 2009-570, s. 42; 2009-575, s. 5; 2010-31, ss. 8.3(d), 8.4(a), 8.11; 2010-112, s. 2; 2010-113, s. 1; 2011-145, ss. 8.2(b), 8.12(a), (b), 8.13, 19.1(h), (k), (l), 31.2; 2011-391, s. 18(a), (b); 2012-83, s. 41; 2012-142, ss. 8.3(a), 8.8; 2013-360, ss. 10.4(b), 10.6, 10.12, 10.15(a); 2013-382, s. 9.1(c); 2014-115, s. 28(e); 2015-167, s. 2.5; 2015-241, ss. 8.41(k), 10.2(a), 10.5(a), 10.6(a), (b); 2016-94, ss. 10.3(a), 10.4(a); 2017-57, ss. 7.22(g), 9.8(a), 9.10(a), (c); 2017-155, s. 2(a); 2017-186, ss. 2(hhhhh), 3(a); 2017-189, s. 6(g); 2017-212, s. 2.1; 2018-5, s. 17.1(c); 2018-97, s. 5.1; 2019-165, ss. 1.5(a), 3.3(b), 3.4.)

#### **§ 115D-5.1. Workforce Development Programs.**

(a) Community colleges shall assist in the preemployment and in-service training of employees in industry, business, agriculture, health occupation and governmental agencies. Such training shall include instruction on worker safety and health standards and practices applicable to

the field of employment. The State Board of Community Colleges shall make appropriate regulations including the establishment of maximum hours of instruction which may be offered at State expense in each in-plant training program. No instructor or other employee of a community college shall engage in the normal management, supervisory and operational functions of the establishment in which the instruction is offered during the hours in which the instructor or other employee is employed for instructional or educational purposes.

(b) through (d) Repealed by Session Laws 2008-107, s. 8.7(a), effective July 1, 2008.

(e) There is created within the North Carolina Community College System the Customized Training Program. The Customized Training Program shall offer programs and training services to assist new and existing business and industry to remain productive, profitable, and within the State. Before a business or industry qualifies to receive assistance under the Customized Training Program, the President of the North Carolina Community College System shall determine that:

(1) The business is making an appreciable capital investment;

(2) The business is deploying new technology;

(2a) The business or individual is creating jobs, expanding an existing workforce, or enhancing the productivity and profitability of the operations within the State; and

(3) The skills of the workers will be enhanced by the assistance.

(f) The Community Colleges System Office shall report no later than September 1 of each year to the Joint Legislative Education Oversight Committee on:

(1) The total amount of funds received by a company under the Customized Training Program.

(1a) The types of services sought by the company, whether for new, expanding, or existing industry.

(2) The amount of funds per trainee received by that company.

(3) The amount of funds received per trainee by the community college delivering the training.

(4) The number of trainees trained by the company and community college.

(5) The number of years that company has been funded.

(f1) Notwithstanding any other provision of law, the State Board of Community Colleges may adopt guidelines that allow the Customized Training Program to use funds appropriated for that program to support training projects for the various branches of the Armed Forces of the United States.

(f2) Funds available to the Customized Training Program shall not revert at the end of a fiscal year but shall remain available until expended. Up to ten percent (10%) of the college-delivered training expenditures and up to five percent (5%) of the contractor-delivered training expenditures for the prior fiscal year for Customized Training may be allotted to each college for capacity building at that college.

(f3) Of the funds appropriated in a fiscal year for the Customized Training Programs, the State Board of Community Colleges may approve the use of up to eight percent (8%) for the training and support of regional community college personnel to deliver Customized Training Program services to business and industry.

(g) The State Board shall adopt guidelines to implement this section. At least 20 days before the effective date of any criteria or nontechnical amendments to guidelines, the State Board must publish the proposed guidelines on the Community Colleges System Office's web site and

provide notice to persons who have requested notice of proposed guidelines. In addition, the State Board must accept oral and written comments on the proposed guidelines during the 15 business days beginning on the first day that the State Board has completed these notifications. For the purpose of this subsection, a technical amendment is either of the following:

- (1) An amendment that corrects a spelling or grammatical error.
- (2) An amendment that makes a clarification based on public comment and could have been anticipated by the public notice that immediately preceded the public comment. (2005-276, s. 8.4(a), (b); 2005-445, s. 3; 2008-107, s. 8.7(a); 2009-451, s. 8.14(c); 2009-523, s. 2(b); 2009-570, s. 41; 2010-96, s. 14; 2011-183, s. 79; 2019-165, s. 2.3.)

**§ 115D-5.2. Commercial fishing and aquaculture classes.**

(a) The General Assembly urges all community colleges serving the coastal area of the State to offer classes on commercial fishing and aquaculture.

(b) The North Carolina Community Colleges System Office shall provide technical assistance to these colleges on offering such classes.

(c) The North Carolina Community Colleges System Office shall report to the Joint Legislative Education Oversight Committee on any fiscal and administrative issues it identifies that limit colleges' ability to offer such courses. (2015-63, ss. 1, 2(a), (b).)

**§ 115D-6. Withdrawal of State support.**

The State Board of Community Colleges may withdraw or withhold State financial and administrative support of any institutions subject to the provisions of this Chapter in the event that:

- (1) The required local financial support of an institution is not provided;
- (2) Sufficient State funds are not available;
- (3) The officials of an institution refuse or are unable to maintain prescribed standards of administration or instruction; or
- (4) Local educational needs for such an institution cease to exist. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 8; 1979, 2nd Sess., c. 1130, s. 1.)

**§ 115D-6.1: Reserved for future codification purposes.**

**§ 115D-6.2: Reserved for future codification purposes.**

**§ 115D-6.3: Reserved for future codification purposes.**

**§ 115D-6.4: Reserved for future codification purposes.**

**§ 115D-6.5. Notice of noncompliance; appointment of an interim board of trustees.**

(a) Notice. – The State Board of Community Colleges is responsible for assuring that boards of trustees of the community colleges comply with applicable State laws, rules, and sound fiscal and management practices, as defined in State Board policy. In addition to any actions taken by the State Board under G.S. 115D-6(3), if the State Board finds that a board of trustees of a community college has willfully, or as a result of gross negligence, failed to or refused to comply with applicable State laws, rules, and sound fiscal and management practices, the State Board may issue a written notice to the board of trustees of its findings and direct the board of trustees to take



remedial action immediately to address those findings upon receipt of the notice. If the State Board finds the college needs assistance with taking remedial action, the State Board may also appoint an advisory committee to provide support and recommendations to the college. At a minimum, the advisory committee shall consist of representatives of the State Board of Community Colleges, the North Carolina Association of Community College Trustees, the North Carolina Association of Community College Presidents, and the System Office, and each party shall appoint its representative to the advisory committee.

(b) Resolution. – If, after receipt of the notice issued under subsection (a) of this section, a board of trustees willfully, or as a result of gross negligence, persists in refusing or failing to comply with the State laws, rules, or sound fiscal and management practices identified in the notice, the State Board of Community Colleges may adopt a resolution, upon approval of at least two-thirds of the members of the State Board attending the meeting in which the resolution is considered, to vacate the terms of the leadership of the board of trustees to include, but not limited to, chair and vice-chair. The respective appointing authorities shall appoint trustees to fulfill the vacated terms and shall not appoint members whose terms were vacated pursuant to this section. If, after the removal of the leadership of the board of trustees, a board of trustees willfully, or as a result of gross negligence, persists in refusing or failing to comply with the State laws, rules, or sound fiscal and management practices identified in the notice, the State Board of Community Colleges may adopt a resolution, upon approval of at least two-thirds of the members of the State Board attending the meeting in which the resolution is considered to vacate the terms of the full board of trustees. Prior to adopting either resolution, the State Board shall consult with the appointing authorities of the board of trustees and representatives of the North Carolina Association of Community College Trustees and the North Carolina Association of Community College Presidents regarding the proposed resolution. The State Board shall only exercise this authority as an extraordinary remedy utilized in the most extreme circumstances and after all of the following remediation actions have been taken without correction of the identified problems:

- (1) The State Board has clearly delineated the failures to comply with applicable State laws, rules, or sound fiscal and management practices.
- (2) The advisory committee appointed consistent with subsection (a) of this section has met with the President of the college and the local board of trustees to discuss the problems in question and to assist the community college in question to resolve them.
- (3) The State Board has vacated the terms of the leadership of the board of trustees, but the identified problems continue to persist.
- (4) The State Board has issued a final warning providing the college with a deadline to resolve the identified problems.

(c) Interim Board Assumption of Powers and Duties. – The adoption of the resolution to remove the full board under this section shall have the effect of vacating the terms of all of the members serving on the board of trustees. Notwithstanding G.S. 115D-12, the State Board of Community Colleges shall appoint an interim five-member board of trustees for a period not to exceed 12 months with input from the advisory committee listed in subsection (a) of this section. To preserve local autonomy, the appointing authorities of the local administrative area of the community college under G.S. 115D-12 shall make recommendations to the State Board on the appointment of the members to the interim board of trustees. All appointees to the interim board of trustees shall be residents of the administrative area of the institution for which they are selected or of counties contiguous thereto with the exception of members provided for in subsection (a) of

G.S. 115D-12, Group Four. At the end of the period of service of the interim board of trustees, a board of trustees for the community college shall be appointed in accordance with G.S. 115D-12. Initial terms of members of the new board of trustees shall be staggered to align with the remainder of the vacated terms of the members of the board of trustees.

(d) Notice to the General Assembly. – Within 60 days of the adoption of the resolution to remove the full board under this section, the State Board shall report to the General Assembly in accordance with G.S. 120-29.5 on the adoption of the resolution, the interim board of trustees appointed by the State Board, and any legislative recommendations necessary in regard to the future governance of the community college.

(e) State Board Policy. – The State Board of Community Colleges shall adopt any policies necessary to implement the provisions of this section. (2018-92, s. 1(a).)

#### **§ 115D-7. Establishment of private, nonprofit corporations.**

The State Board of Community Colleges shall encourage the establishment of private, nonprofit corporations to support the community college system. The President of the Community Colleges System with the approval of the State Board of Community Colleges, may assign employees to assist with the establishment and operation of such nonprofit corporation and may make available to the corporation office space, equipment, supplies and other related resources; provided, the sole purpose of the corporation is to support the community college system.

The board of directors of each private, nonprofit corporation shall secure and pay for the services of the State Auditor's Office or employ a certified public accountant to conduct an audit of the financial accounts of the corporation. The board of directors shall transmit to the State Board of Community Colleges a copy of the annual financial audit report of the private nonprofit corporation. (1987, c. 383, s. 1; 1999-84, s. 10.)

**§ 115D-8.** Repealed by Session Laws 1999-84, s. 4.

#### **§ 115D-9. Powers of State Board regarding certain fee negotiations, contracts, and capital improvements.**

(a) The expenditures of any State funds for any capital improvements of existing institutions shall be subject to the prior approval of the State Board of Community Colleges and the Governor. The expenditure of State funds at any institution herein authorized to be approved by the State Board under G.S. 115D-4 shall be subject to the terms of the State Budget Act unless specifically otherwise provided in this Chapter.

(b) Notwithstanding G.S. 143-341(3), the State Board of Community Colleges may, with respect to design, construction, repair, or renovation of buildings, utilities, and other State-funded property developments of the North Carolina Community College System requiring the estimated expenditure of public money of four million dollars (\$4,000,000) or less:

- (1) Conduct the fee negotiations for all design contracts and supervise the letting of all construction and design contracts.
- (2) Develop procedures governing the responsibilities of the North Carolina Community College System and its community colleges to perform the duties of the Department of Administration and the Director or Office of State Construction under G.S. 133-1.1(d) and G.S. 143-341(3).
- (3) Use existing plans and specifications for construction projects, where feasible. Prior to designing a project, the State Board shall consult with

the Department of Administration on the availability of existing plans and specifications and the feasibility of using them for a project.

(c) The State Board may delegate its authority under subsection (b) of this section to a community college if the community college is qualified under guidelines adopted by the State Board and approved by the State Building Commission and the Director of the Budget.

(d) The North Carolina Community College System shall use the standard contracts for design and construction currently in use for State capital improvement projects by the Office of State Construction of the Department of Administration.

(e) A contract may not be divided for the purpose of evading the monetary limit under this section.

(f) Notwithstanding any other provision of this Chapter, the Department of Administration shall not be the awarding authority for contracts awarded under subsections (b) or (c) of this section.

(g) The Community Colleges System Office shall report no later than October 1 of each year to the State Building Commission the following:

- (1) A list of projects governed by this section.
- (2) The estimated cost of each project along with the actual cost.
- (3) The name of each person awarded a contract under this section.
- (4) Whether the person or business awarded a contract under this section meets the definition of "minority business" or "minority person" as defined in G.S. 143-128.2(g).

(h) The provisions of G.S. 143-341(3) shall not apply to a capital improvement project funded with non-State funds if the State Board of Community Colleges determines that the college has the expertise necessary to manage the project unless the assistance of the Office of State Construction is requested. (2009-229, s. 2; 2011-145, s. 8.19(a); 2019-165, s. 2.4.)

**§ 115D-10. Reserved for future codification purposes.**

**§ 115D-11. Reserved for future codification purposes.**

Article 1A.

ApprenticeshipNC.

**§ 115D-11.5. Purpose.**

The purposes of this Article are to open to young people the opportunity to obtain training that will equip them for profitable employment and citizenship; to set up, as a means to this end, a program of voluntary apprenticeship under approved apprentice agreements providing facilities for their training and guidance in the arts and crafts of industry and trade, with parallel instruction in related and supplementary education; to promote employment opportunities for young people under conditions providing adequate training and reasonable earnings; to relate the supply of skilled workers to employment demands; to establish standards for apprentice training; to coordinate workforce education and customized training tools to fill talent pipeline gaps, as appropriate, with local business and industry; to establish an Apprenticeship Council and apprenticeship committees and sponsors to assist in effectuating the purposes of this Article; to leverage the collaborative and regional structure of the community college service areas with the

Collaboration for Prosperity Zones set out in G.S. 143B-28.1; to provide for a Director of ApprenticeshipNC within the Community Colleges System Office; to provide for reports to the legislature and to the public regarding the status of apprentice training in the State; to establish a procedure for the determination of apprentice agreement controversies; and to accomplish related ends. (1939, c. 229, s. 1; 1979, c. 673, s. 1; 2013-330, s. 2(c); 2017-57, s. 15.13(c).)

#### **§ 115D-11.6. Apprenticeship Council.**

The State Board of Community Colleges shall appoint an Apprenticeship Council composed of four representatives each from employer and employee organizations respectively and three representatives from the public at large. One State official designated by the Department of Public Instruction and one State official designated by the Department of Commerce shall be a member ex officio of the council, without vote. The terms of office of the members of the Apprenticeship Council shall be designated by the State Board. Any member appointed to fill a vacancy occurring prior to the expiration of the term of his or her predecessor shall be appointed for the remainder of the term. Each member of the Council not otherwise compensated by public moneys, shall be reimbursed for transportation and shall receive such per diem compensation as is provided generally for boards and commissions under the biennial maintenance appropriation acts for each day spent in attendance at meetings of the Apprenticeship Council. The State Board of Community Colleges shall annually appoint one member of the Council to act as its chair.

The Apprenticeship Council shall meet at the call of the State Board of Community Colleges and shall aid the State Board and the Community Colleges System Office in formulating policies for the effective administration of this Article. The Apprenticeship Council shall establish standards for apprentice agreements which in no case shall be lower than those prescribed by this Article, shall recommend rules and regulations to the State Board of Community Colleges as may be necessary to carry out the intent and purposes of this Article, and shall perform other functions as the State Board of Community Colleges may direct. No later than September 1 of each year the Apprenticeship Council shall make a report through the Community Colleges System Office of its activities and findings to the public and to the Joint Legislative Education Oversight Committee, the chairs of the Senate Appropriations Committee on Education/Higher Education, and the chairs of the House of Representatives Appropriations Committee on Education. (1939, c. 229, s. 2; 1973, c. 476, s. 138; 1977, c. 896; 2013-330, s. 2(c); 2017-57, ss. 14.1(o), 15.13(c); 2018-142, s. 13(b); 2019-165, s. 3.5.)

#### **§ 115D-11.7. ApprenticeshipNC.**

The State Board of Community Colleges is hereby directed to appoint a Director of ApprenticeshipNC, which appointment shall be subject to the confirmation of the State Apprenticeship Council by a majority vote. Upon the recommendation of the Director, the State Board of Community Colleges may appoint and employ clerical, technical, and professional help as necessary to effectuate the purposes of this Article. The Director shall supervise clerical, technical, and professional staff appointed to administer the ApprenticeshipNC program. (1939, c. 229, s. 3; 2013-330, s. 2(c); 2017-57, s. 15.13(c).)

#### **§ 115D-11.8. Powers and duties of Director of ApprenticeshipNC.**

The Director, under the supervision of the President of the North Carolina Community College System or the President's designee and with the advice and guidance of the Apprenticeship Council, is authorized to administer the provisions of this Article; in cooperation with the

Apprenticeship Council and apprenticeship committees and sponsors, to set up conditions and training standards for apprentice agreements, which conditions or standards shall in no case be lower than those prescribed by this Article; to act as secretary of the Apprenticeship Council; to approve for the Council any apprentice agreement that meets the standards established under this Article; to terminate or cancel any apprentice agreement in accordance with the provisions of the agreement; to keep a record of apprentice agreements and their disposition; to issue certificates of completion of apprenticeship; and to perform other duties as are necessary to carry out the intent of this Article, including other on-the-job training necessary for emergency and critical civilian production. The administration and supervision of related and supplemental instruction for apprentices, coordination of instruction with job experiences, and the selection and training of teachers and coordinators for the instruction is the responsibility of State and local boards responsible for career and technical education. (1939, c. 229, s. 4; 1951, c. 1031, s. 1; 1979, c. 673, s. 2; 2013-330, s. 2(c); 2017-57, s. 15.13(c).)

**§ 115D-11.9. Apprenticeship committees and program sponsors.**

(a) As used in this Article:

- (1) "Apprenticeship agreement" means a written agreement between an apprentice and either his or her employer or an apprenticeship committee or sponsor acting as agent for employers, which agreement satisfies the requirements of G.S. 115D-11.11.
- (2) "Apprenticeship committee" means those persons designated by the sponsor, and approved by the Apprenticeship Council, to act for it in the administration of the apprenticeship program. A committee may be "joint," i.e., it is composed of an equal number of representatives of the employer and of the employees represented by a bona fide collective bargaining agent and has been established to conduct, operate, or administer an apprenticeship program and enter into apprenticeship agreements with apprentices. A committee may be "unilateral" or "nonjoint" which shall mean a program sponsor in which employees or a bona fide collective bargaining agent is not a party.
- (3) "ApprenticeshipNC" means the statewide apprenticeship program administered by the Community Colleges System Office in accordance with this Article.
- (4) "Apprenticeship program" means a plan containing all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices, including such matters as the requirement for a written apprenticeship agreement.
- (5) "Employer" means any person, firm, corporation, or organization employing an apprentice whether or not such person, firm, corporation, or organization is a party to an apprenticeship agreement with the apprentice.
- (6) "Sponsor" means any person, firm, corporation, organization, association, or committee operating an apprenticeship program and in whose name the apprenticeship program is approved.

(b) An apprenticeship committee may be appointed by the Apprenticeship Council in any trade or group of trades in a city or trade area, whenever the apprentice training needs of the trade or group of trades justifies such establishment.

(c) The function of the apprenticeship committee, or sponsor when there is no apprenticeship committee, shall be to cooperate with school authorities in regard to the education of apprentices; in accordance with the standards set up by the apprenticeship committee for the same trade or group of trades, where a committee has been appointed, to work in an advisory capacity with employers and employees in matters regarding schedule of operations, application of wage rates, and working conditions for apprentices and to specify the number of apprentices which shall be employed locally in the trade under the apprenticeship agreements under this Article; to adjust apprenticeship disputes, subject to the approval of the Director; to ascertain the prevailing rate for journeymen in the city or trade area and specify the graduated scale of wages applicable to apprentices in the trade in that area; to ascertain employment needs in the trade or group of trades and specify the appropriate current ratio of apprentices to journeymen; and to make recommendations for the general good of apprentices engaged in the trade or trades represented by the committee. An apprenticeship committee may appoint a representative and delegate to the representative the authority for implementation and performance of any standards adopted by the committee pursuant to any of the aforementioned functions. (1939, c. 229, s. 5; 1979, c. 673, s. 3; 2017-57, s. 15.13(c).)

#### **§ 115D-11.10. Definition of an apprentice.**

The term "apprentice" means a person at least 16 years of age who is covered by a written apprenticeship agreement approved by the Apprenticeship Council, which apprenticeship agreement provides for not less than 2,000 hours of reasonably continuous employment for the person for his or her participation in an approved schedule of work experience and for organized, related supplemental instruction in technical subjects related to the trade. A minimum of 144 hours of related supplemental instruction for each year of apprenticeship is recommended. The required hours for apprenticeship agreements and the recommended hours for related supplemental instruction may be decreased or increased in accordance with standards adopted by the apprenticeship committee or sponsor, subject to approval of the State Board of Community Colleges. (1939, c. 229, s. 6; 1979, c. 479, ss. 1, 2; c. 673, s. 4; 2013-330, s. 2(c); 2017-57, s. 15.13(c).)

#### **§ 115D-11.11. Contents of agreement.**

Every apprentice agreement entered into under this Article shall contain:

- (1) The names of the contracting parties.
- (2) The date of birth of the apprentice.
- (3) A statement of the trade, craft, or business which the apprentice is to be taught, and the time at which the apprenticeship will begin and end.
- (4) A statement showing (i) the number of hours to be spent by the apprentice in work on the job and (ii) the number of hours to be spent in related and supplemental instruction, which is recommended to be not less than 144 hours per year. In no case shall the combined weekly hours of work and of required related and supplemental instruction of the apprentice exceed the maximum number of hours of work prescribed by law for a person of the age of the apprentice.

- (5) A statement setting forth a schedule of the processes in the trade or industry division in which the apprentice is to be taught and the approximate time to be spent at each process.
- (6) A statement of the graduated scale of wages to be paid the apprentice and whether the required school time shall be compensated.
- (7) A statement providing for a period of probation of not more than 500 hours of employment and instruction extending over not more than four months, during which time the apprentice agreement shall be terminated by the Director at the request in writing of either party, and providing that after the probationary period the apprentice agreement may be terminated by the Director by mutual agreement of all parties or canceled by the Director for good and sufficient reason. The Council at the request of a joint apprentice committee may lengthen the period of probation.
- (8) A provision that all controversies or differences concerning the apprentice agreement which cannot be adjusted locally in accordance with G.S. 115D-11.9 shall be submitted to the Director for determination.
- (9) A provision that an employer who is unable to fulfill his or her obligation under the apprentice agreement may with the approval of the Director transfer the contract to any other employer; provided, that the apprentice consents and that the other employer agrees to assume the obligations of the apprentice agreement.
- (10) Any additional terms and conditions as may be prescribed or approved by the Director not inconsistent with the provisions of this Article. (1939, c. 229, s. 7; 1945, c. 729, s. 1; 1977, c. 550, s. 1; 1979, c. 673, s. 5; 2017-57, s. 15.13(c).)

**§ 115D-11.12. Approval of apprentice agreements; signatures.**

No apprentice agreement under this Article shall be effective until approved by the Director. Every apprentice agreement shall be signed by the employer, or by an association of employers or an organization of employees as provided in G.S. 115D-11.13, and by the apprentice, and if the apprentice is a minor, by either of the minor's parents, or by any person, agency, organization, or institution standing in loco parentis. Where a minor enters into an apprentice agreement under this Article for a period of training extending into his or her majority, the apprentice agreement shall likewise be binding for a period as may be covered during the apprentice's majority. (1939, c. 229, s. 8; 1977, c. 550, s. 2; 2017-57, s. 15.13(c).)

**§ 115D-11.13. Rotation of employment.**

For the purpose of providing greater diversity of training or continuity of employment, any apprentice agreement made under this Article may in the discretion of the Director of ApprenticeshipNC be signed by an association of employers or an organization of employees instead of by an individual employer. In this case, the apprentice agreement shall expressly provide that the association of employers or organization of employees does not assume the obligation of an employer but agrees to use its best endeavors to procure employment and training for the apprentice with one or more employers who will accept full responsibility for all the terms and conditions of employment and training set forth in the agreement between the apprentice and

employer association or employee organization during the period of each employment. The apprentice agreement in this case shall also expressly provide for the transfer of the apprentice, subject to the approval of the Director, to such employer or employers who shall sign in written agreement with the apprentice, and if the apprentice is a minor with his or her parent or guardian, as specified in G.S. 115D-11.12, contracting to employ the apprentice for the whole or a definite part of the total period of apprenticeship under the terms and conditions of employment and training set forth in the agreement entered into between the apprentice and employer association or employee organization. (1939, c. 229, s. 9; 2017-57, s. 15.13(c).)

**§ 115D-11.14. Limitation.**

Nothing in this Article or in any apprentice agreement approved under this Article shall invalidate any apprenticeship provision in any collective agreement between employers and employees that sets up higher apprenticeship standards. None of the terms or provisions of this Article apply to any person, firm, corporation, or crafts unless, until, and only so long as the person, firm, corporation, or crafts voluntarily elects that the terms and provisions of this Article apply. Any person, firm, corporation, or crafts terminating an apprenticeship agreement shall notify the Director of ApprenticeshipNC. (1939, c. 229, s. 11; 1945, c. 729, s. 3; 2017-57, s. 15.13(c).)

Article 2.

Local Administration.

**§ 115D-12. Each institution to have board of trustees; selection of trustees.**

(a) Each community college established or operated pursuant to this Chapter shall be governed by a board of trustees consisting of 13 members, or of additional members if selected according to the special procedure prescribed by the third paragraph of this subsection, who shall be selected by the following agencies. No member of the General Assembly may be appointed to a local board of trustees for a community college.

Group One – four trustees, elected by the board of education of the public school administrative unit located in the administrative area of the institution. If there are two or more public school administrative units, whether city or county units, or both, located within the administrative area, the trustees shall be elected jointly by all of the boards of education of those units, each board having one vote in the election of each trustee, except as provided in G.S. 115D-59. No board of education shall elect a member of the board of education or any person employed by the board of education to serve as a trustee, however, any such person currently serving on a board of trustees shall be permitted to fulfill the unexpired portion of the trustee's current term.

Group Two – four trustees, elected by the board of commissioners of the county in which the institution is located. Provided, however, if the administrative area of the institution is composed of two or more counties, the trustees shall be elected jointly by the boards of commissioners of all those counties, each board having one vote in the election of each trustee. Provided, also, the county commissioners of the county in which the community college has established a satellite campus may elect an additional two members if the board of trustees of the community college agrees. No more than one trustee from Group Two may be a member of a board of county commissioners. Should the boards of education or the boards of commissioners involved be unable to agree on one or more trustees the senior resident superior court judge in the superior court district or set of districts as defined in G.S. 7A-41.1 where the institution is located shall fill the position or positions by appointment.



Group Three – four trustees, appointed by the Governor.

Group Four – the president of the student government or the chairman of the executive board of the student body of each community college established pursuant to this Chapter shall be an ex officio nonvoting member of the board of trustees of each said institution.

(b) All trustees shall be residents of the administrative area of the institution for which they are selected or of counties contiguous thereto with the exception of members provided for in subsection (a) of this section, Group Four.

(b1) No person who has been employed full time by the community college within the prior 5 years and no spouse or child of a person currently employed full time by the community college shall serve on the board of trustees of that college.

(c) Vacancies occurring in any group for whatever reason shall be filled for the remainder of the unexpired term by the agency or agencies authorized to select trustees of that group and in the manner in which regular selections are made. Should the selection of a trustee not be made by the agency or agencies having the authority to do so within 60 days after the date on which a vacancy occurs, whether by creation or expiration of a term or for any other reason, the Governor shall fill the vacancy by appointment for the remainder of the unexpired term. (1963, c. 448, s. 23; 1977, c. 823, s. 104; 1979, c. 462, s. 2; 1985, c. 757, s. 147; 1987, c. 564, ss. 10, 12; 1987 (Reg. Sess., 1988), c. 1037, s. 111; 1991, c. 283, s. 1; 1995, c. 470, s. 1; 2009-549, s. 19; 2013-410, s. 9.)

#### **§ 115D-13. Terms of office of trustees.**

(a) The regular terms of trustees appointed in 1981 and trustees appointed in 1987 shall be extended for one year. The term of one or more trustees, as appropriate, elected pursuant to G.S. 115D-12 may be extended for one year so that these terms will be staggered, unless they are already staggered.

(b) Except for the one year extensions of terms set forth in subsection (a) of this section, and for the ex officio member, as the terms of trustees currently in office expire, their successors shall be appointed for four-year terms.

All terms shall commence on July 1 of the year. (1963, c. 448, s. 23; 1977, c. 823, s. 5; 1979, c. 462, s. 2; 1985, c. 58; 1989, c. 521, s. 1.)

#### **§ 115D-14. Board of trustees a body corporate; corporate name and powers; title to property.**

The board of trustees of each institution shall be a body corporate with powers to enable it to acquire, hold, and transfer real and personal property, to enter into contracts, to institute and defend legal actions and suits, and to exercise such other rights and privileges as may be necessary for the management and administration of the institution in accordance with the provisions and purposes of this Chapter. The official title of each board shall be "The Trustees of \_\_\_\_\_" (filling in the name of the institution) and such title shall be the official corporate name of the institution.

The several boards of trustees shall hold title to all real and personal property donated to their respective institutions by private persons or purchased with funds provided by the tax-levying authorities of their respective institutions. Title to equipment furnished by the State shall remain in the State Board of Community Colleges. In the event that an institution shall cease to operate, title to all real and personal property donated to the institution or purchased with funds provided by the tax-levying authorities, except as provided for in G.S. 115D-14, shall vest in the county in which the institution is located, unless the terms of the deed of gift in the case of donated property

provides otherwise, or unless in the case of two or more counties forming a joint institution the contract provided for in G.S. 115D-71 provides otherwise. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1.)

**§ 115D-15. Sale, exchange or lease of property; use of proceeds from donated property.**

(a) The board of trustees of any institution organized under this Chapter may, with the prior approval of the North Carolina Community Colleges System Office, convey a right-of-way or easement for highway construction or for utility installations or modifications. When in the opinion of the board of trustees the use of any other real property owned or held by the board of trustees is unnecessary or undesirable for the purposes of the institution, the board of trustees, subject to prior approval of the State Board of Community Colleges, may sell or dispose of the property. For purposes of this section, "dispose" means "lease, exchange, or demolish." The board of trustees may dispose of any personal property owned or held by the board of trustees without approval of the State Board of Community Colleges. Personal property titled to the State Board of Community Colleges consistent with G.S. 115D-14 and G.S. 115D-58.5 may be transferred to another community college at no cost and without the approval of the Department of Administration, Division of Surplus Property.

Article 12 of Chapter 160A of the General Statutes shall apply to the disposal or sale of any real or personal property under this subsection. Personal property also may be disposed of under procedures adopted by the North Carolina Department of Administration. The proceeds of any sale or lease shall be used for capital outlay purposes, except as provided in subsection (b) of this section.

(b) Subject to rules adopted by the State Board, if real or personal property is donated to a community college to support a specific educational purpose, the board of trustees may use the proceeds from the sale or lease of the property according to the terms of the donation. The board of trustees shall use the procedures authorized under Article 12 of Chapter 160A of the General Statutes when selling or leasing property under this subsection. (1969, c. 338; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1998-72, s. 1; 1998-217, s. 39; 2001-82, s. 1; 2011-145, s. 8.9; 2014-115, s. 51.5.)

**§ 115D-15.1. Disposition, acquisition, and construction of property by community college.**

(a) Disposition. – Notwithstanding the provisions of G.S. 115D-14, 115D-15, and 160A-274, the board of trustees of a community college may, in connection with additions, improvements, renovations, or repairs to all or part of its property, lease, sell, or otherwise dispose of any of its property to the county in which the property is located for any price and on any terms negotiated between the board of trustees of the community college and the board of county commissioners.

(b) Transfer. – An agreement under subsection (a) of this section shall require the county to transfer the property back to the board of trustees of the community college when any financing agreement entered into by the county to finance the additions, improvements, renovations, and repairs has been satisfied.

Notwithstanding the transfer of property to the county, the provisions of subsection (d) of this section, G.S. 143-129, and G.S. 143-341 apply to the capital improvement project.

(c) Acquisition and Construction. – Notwithstanding the provisions of G.S. 115D-14 and G.S. 115D-20(3), the board of trustees of a community college may acquire, by any lawful method, any interest in real or personal property in the county in which the community college is located

or in its service delivery area for use by the board of trustees. The board of trustees may contract for the construction, equipping, expansion, improvement, renovation, repair, or otherwise making available for use by the board of trustees of the community college of all or part of the property upon any terms negotiated between the board of trustees of the community college and the board of county commissioners.

(d) Approval. – The actions of a board of trustees of a community college taken pursuant to this section are subject to the approval of the State Board of Community Colleges.

(e) Contract Responsibility. – A county's obligations under a financing contract entered into by the county to finance improvements to real or personal property pursuant to this section shall be the responsibility of the county and not the responsibility of the board of trustees of the community college. (1999-115, s. 2; 2007-484, s. 29(b).)

#### **§ 115D-16. Elective officials serving as trustees.**

The office of trustee of any institution established or operated pursuant to this Chapter is hereby declared to be an office which may be held by the holder of any elective office, as defined in G.S. 128-1.1(d), in addition to and concurrently with those offices permitted by G.S. 128-1.1. Appointments made on or before July 1, 1985, by boards of county commissioners or local boards of education of their own members as trustees are hereby validated, ratified, and confirmed. (1979, c. 462, s. 2; 1985, c. 773.)

#### **§ 115D-17. Compensation of trustees.**

Trustees shall receive no compensation for their services but shall receive reimbursement, according to regulations adopted by the State Board of Community Colleges, for cost of travel, meals, and lodging while performing their official duties. The reimbursement of the trustees from State funds shall not exceed the amounts permitted in G.S. 138-5. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1.)

#### **§ 115D-18. Organization of boards; meetings.**

At the first meeting held on or after July 1, each board of trustees shall elect from its membership a chair, who shall preside at all board meetings, and a vice-chair, who shall preside in the absence of the chair. The trustees shall also elect a secretary, who may be a trustee, to keep the minutes of all board meetings. All three officers of the board shall be elected for a period of one year but shall be eligible for reelection by the board.

Each board of trustees shall meet as often as may be necessary for the conduct of the business of the institution but shall meet at least six times a year. Meetings may be called by the chair of the board, a majority of the trustees, or the chief administrative officer of the institution. (1963, c. 448, s. 23; 1979, c. 462, s. 2; 2007-197, s. 1; 2018-92, s. 1(b).)

#### **§ 115D-19. Removal of trustees.**

(a) Should the State Board of Community Colleges have sufficient evidence that any member of the board of trustees of an institution is not capable of discharging, or is not discharging, the duties of his office as required by law or lawful regulation, or is guilty of immoral or disreputable conduct, the State Board shall notify the chairman of such board of trustees, unless the chairman is the offending member, in which case the other members of the board shall be notified. Upon receipt of such notice there shall be a meeting of the board of trustees for the purpose of investigating the charges, at that meeting a representative of the State Board of

Community Colleges may appear to present evidence of the charges. The allegedly offending member shall be given proper and adequate notice of the meeting and the findings of the other members of the board shall be recorded, along with the action taken, in the minutes of the board of trustees. If the charges are, by an affirmative vote of two-thirds of the members of the board, found to be true, the board of trustees shall declare the office of the offending member to be vacant.

Nothing in this section shall be construed to limit the authority of a board of trustees to hold a hearing as provided herein upon evidence known or presented to it.

(b) A board of trustees may declare vacant the office of a member who does not attend three consecutive, scheduled meetings without justifiable excuse. A board of trustees may also declare vacant the office of a member who, without justifiable excuse, does not participate within six months of appointment in a trustee orientation and education session sponsored by the North Carolina Association of Community College Trustees. The board of trustees shall notify the appropriate appointing authority of any vacancy. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1989, c. 521, s. 2; 1995, c. 470, s. 2.)

#### **§ 115D-20. Powers and duties of trustees.**

The trustees of each institution shall constitute the local administrative board of such institution, with such powers and duties as are provided in this Chapter and as are delegated to it by the State Board of Community Colleges. The powers and duties of trustees shall include the following:

- (1) To elect a president or chief administrative officer of the institution for such term and under such conditions as the trustees may fix. If the board of trustees chooses to use a search consultant to assist with the election process, the board of trustees shall select the search consultant through a competitive request for proposals process. A search consultant selected pursuant to this subdivision who is collecting a fee for the consultant's services shall not be (i) an employee of a State agency, department, or institution, an appointed member of a State commission or board, or an elected official whose responsibilities include oversight or budgetary aspects of the Community College System, (ii) a lobbyist or lobbyist principal as defined in G.S. 120C-100, or (iii) a State-level community college board of trustees association or organization. A contract with a search consultant pursuant to this subdivision shall not be subject to Article 3C of Chapter 143 of the General Statutes. The election of a president or chief administrative officer shall be subject to the approval of the State Board of Community Colleges.
- (2) To elect or employ all other personnel of the institution upon nomination by the president or chief administrative officer, subject to standards established by the State Board of Community Colleges. Trustees may delegate the authority of employing such other personnel to its president or chief administrative officer.
- (3) To purchase any land, easement, or right-of-way which shall be necessary for the proper operation of the institution, upon approval of the State Board of Community Colleges, and if necessary, to acquire land by

condemnation in the same manner and under the same procedures as provided in General Statutes Chapter 40A. For the purpose of condemnation, the determination by the trustees as to the location and amount of land to be taken and the necessity therefor shall be conclusive.

(4) To apply the standards and requirements for admission and graduation of students and other standards established by the State Board of Community Colleges. Notwithstanding any law or administrative rule to the contrary, local community colleges are permitted to offer the following programs:

a. Subject to the approval of the State Board of Community Colleges, local community colleges may collaborate with local school administrative units to offer courses through the following programs:

1. Cooperative innovative high school programs as provided by Part 9 of Article 16 of Chapter 115C of the General Statutes.
2. Academic transition pathways for qualified junior and senior high school students that lead to a career technical education certificate, diploma, or State or industry-recognized credential and academic transition pathways for qualified freshmen and sophomore high school students that lead to a career technical education certificate or diploma in (i) industrial and engineering technologies, (ii) agriculture and natural resources, (iii) transportation technology, (iv) construction, or (v) business technologies.
3. College transfer pathways requiring the successful completion of 30 semester credit hours of transfer courses, including English and mathematics, for the following students:
  - I. Qualified junior and senior high school students.
  - II. Qualified freshman and sophomore high school students, if all of the following requirements are met:
    - A. The student is determined to be academically gifted, have a demonstrated readiness for the course material, and have the maturity to justify admission to the community college by (i) the community college president, (ii) the student's high school principal or equivalent administrator, and (iii) the academically gifted coordinator, if one is employed by the high school or local school administrative unit.
    - B. The student participates in academic advising focused on the implications of being admitted to college early with representatives from the high school and the community college.
    - C. The student's parent or guardian has given consent for the student to participate.

- b. During the summer quarter, persons less than 16 years old may be permitted to take noncredit courses on a self-supporting basis, subject to rules of the State Board of Community Colleges.
  - c. High school students may be permitted to take noncredit courses in safe driving on a self-supporting basis during the academic year or the summer.
  - d. High school students 16 years and older may be permitted to take noncredit courses, except adult basic skills, subject to rules promulgated by the State Board of Community Colleges.
- (5) To receive and accept donations, gifts, devises, and the like from private donors and to apply them or invest any of them and apply the proceeds for purposes and upon the terms which the donor may prescribe and which are consistent with the provisions of this Chapter and the regulations of the State Board of Community Colleges.
  - (6) To provide all or part of the instructional services for the institution by contracting with other public or private organizations or institutions in accordance with regulations and standards adopted by the State Board of Community Colleges.
  - (7) To perform such other acts and do such other things as may be necessary or proper for the exercise of the foregoing specific powers, including the adoption and enforcement of all reasonable rules, regulations, and bylaws for the government and operation of the institution under this Chapter and for the discipline of students.
  - (8) If a board of trustees of an institution provides access to its buildings and campus and the student information directory to persons or groups which make students aware of occupational or educational options, the board of trustees shall provide access on the same basis to official recruiting representatives of the military forces of the State and of the United States for the purpose of informing students of educational and career opportunities available in the military.
  - (9) To encourage the establishment of private, nonprofit corporations to support the institution. The president, with approval of the board of trustees, may assign employees to assist with the establishment and operation of such corporation and may make available to the corporation office space, equipment, supplies and other related resources; provided, the sole purpose of the corporation is to support the institution. The board of directors of each private, nonprofit corporation shall secure and pay for the services of the State Auditor's Office or employ a certified public accountant to conduct an annual audit of the financial accounts of the corporation. The board of directors shall transmit to the board of trustees a copy of the annual financial audit report of the private nonprofit corporation.

- (10) To enter into guaranteed energy savings contracts pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.
- (10a) To enter into loan agreements under the Energy Improvement Loan Program pursuant to Part 3 of Article 36 of Chapter 143 of the General Statutes.
- (11) To enter into lease purchase and installment purchase contracts for equipment and real property under G.S. 115D-58.15.
- (12) Notwithstanding the provisions of this Chapter, a community college may permit the use of its personnel or facilities, in support of or by a private business enterprise located on a community college campus or in the service area of a community college for the specific purposes set out in G.S. 66-58(c)(3a) and G.S. 66-58(c)(3d). The board of trustees of a community college must specifically approve any use of facilities or personnel under this subdivision. The State Board shall adopt rules to implement this subdivision, G.S. 66-58(c)(3a), and G.S. 66-58(c)(3d).
- (13) To enter into a public/private partnership in which all of the following conditions are met:
  - a. The agreement is approved in advance by the State Board of Community Colleges.
  - b. The board of trustees agrees to lease community college land to a private entity on condition that the entity construct a facility on the leased land.
  - c. The facility will be jointly owned and used by the private entity and the community college.
  - d. The board of trustees is not authorized to lease the facility as lessee under a long-term lease or capital lease from the private entity as lessor.
  - e. The board of trustees is not authorized to finance its portion of the facility by entering into an installment contract or other financing contract with the private entity.
  - f. State bond funds shall not be used to pay for construction of that part of the facility to be owned and used by the private entity.
  - g. The provisions of G.S. 143-341(3)a. apply to the construction of a facility under this subsection.
- (14) To comply with the design and construction requirements regarding energy efficiency and water use in the Sustainable Energy-Efficient Buildings Program under Article 8C of Chapter 143 of the General Statutes. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 901, s. 2; 1983, c. 378, s. 1; c. 596, s. 1; 1985, c. 191; 1987, c. 383, s. 2; 1993 (Reg. Sess., 1994), c. 775, s. 7; 1998-111, s. 1; 2001-368, s. 2; 2003-286, s. 1; 2005-247, s. 2; 2006-259, s. 21; 2007-476, s. 1; 2008-203, s. 2; 2009-119, s. 1; 2011-145, s. 7.1A(h); 2011-284, s. 82; 2011-391, s. 13(c); 2011-419, s. 2; 2013-310, s. 2; 2013-360, s. 10.9(a); 2015-241, s. 10.4;

2017-6, s. 3; 2017-57, ss. 9.7(a), 9.10(b); 2018-146, ss. 3.1(a), (b), 6.1; 2019-185, s. 1.)

**§ 115D-20.1. Policy prohibiting tobacco use in community college buildings, grounds, and at community college-sponsored events.**

(a) As used in this section:

- (1) "Tobacco product" includes cigarettes, cigars, blunts, bidis, pipes, chewing tobacco, snus, snuff, and any other items containing or reasonably resembling tobacco or tobacco products.
- (2) "Tobacco use" includes smoking, chewing, dipping, or any other use of tobacco products.

(b) Local community college boards of trustees may adopt, implement, and enforce a written policy prohibiting at all times the use of any tobacco product by any person in community college buildings, in community college facilities, on community college campuses, in vehicles owned, leased, or operated by the local community college, and in or on any other community college property owned, leased, or operated by the local community college. The policy may also prohibit the use of all tobacco products by persons attending a community college-sponsored event.

(c) The policy adopted by a local community college board of trustees may include the following elements:

- (1) Adequate notice of the policy to students, parents, the public, and school personnel.
- (2) Posting of signs prohibiting at all times the use of tobacco products by any person in and on community college property.
- (3) Requirements that community college personnel develop plans for successful implementation of and compliance with the policy.
- (4) Permission for tobacco products to be included in instructional or research activities in community college buildings if the activity is conducted or supervised by the faculty member overseeing the instruction or research and the activity does not include smoking, chewing, or otherwise ingesting the tobacco product.

(d) Nothing in G.S. 130A-498, G.S. 143-595 through G.S. 143-601, or any other section prohibits a local community college board of trustees from adopting and enforcing a more restrictive policy on the use of tobacco in community college buildings, in community college facilities, on community college campuses, or at community college-related or community college-sponsored events, and in or on other community college property.

(e) The North Carolina Tobacco Prevention and Control Branch and the Health and Wellness Trust Fund Commission shall work with local community college boards of trustees to provide assistance with the development and implementation of the policy including providing information regarding smoking cessation and prevention resources. (2008-95, ss. 2, 3.)

**§ 115D-20.2. Student organizations; rights and recognition.**

(a) No community college that grants recognition to any student organization shall deny recognition to a student organization or deny to a student organization access to programs, funding, facilities, or other privileges associated with official recognition otherwise available to another



student organization, on the basis of the organization's exercise of its rights pursuant to subsection (b) of this section.

(b) To the extent allowed by State and federal law, a religious or political student organization may, in conformity with the organization's established written doctrines expressing the organization's faith or mission, (i) determine that only persons professing the faith or mission of the group, and comporting themselves in conformity with, are qualified to serve as leaders of that organization, (ii) order its internal affairs according to the established written doctrines, and (iii) resolve the organization's disputes according to the established written doctrines. (2014-28, s. 2.)

#### **§ 115D-21. Traffic regulations; fines and penalties.**

(a) All of the provisions of Chapter 20 of the General Statutes relating to the use of highways of the State of North Carolina and the operation of motor vehicles thereon shall apply to the streets, roads, alleys and driveways on the campuses of all institutions in the North Carolina Community College System. Any person violating any of the provisions of Chapter 20 of the General Statutes in or on the streets, roads, alleys and driveways on the campuses of institutions in the North Carolina Community College System shall, upon conviction thereof, be punished as prescribed in this section and as provided by Chapter 20 of the General Statutes relating to motor vehicles. Nothing contained in this section shall be construed as in any way interfering with the ownership and control of the streets, roads, alleys and driveways on the campuses of institutions in the system as is now vested by law in the trustees of each individual institution in the North Carolina Community College System.

(b) The trustees are authorized and empowered to make additional rules and regulations and to adopt additional ordinances with respect to the use of the streets, roads, alleys and driveways and to establish parking areas on or off the campuses not inconsistent with the provisions of Chapter 20 of the General Statutes of North Carolina. Upon investigation, the trustees may determine and fix speed limits on streets, roads, alleys, and driveways subject to such rules, regulations, and ordinances, lower than those provided in G.S. 20-141. The trustees may make reasonable provisions for the towing or removal of unattended vehicles found to be in violation of rules, regulations and ordinances. All rules, regulations and ordinances adopted pursuant to the authority of this section shall be recorded in the proceedings of the trustees; shall be printed; and copies of such rules, regulations and ordinances shall be filed in the office of the Secretary of State of North Carolina. Violation of any such rules, regulations, or ordinances, is an infraction punishable by a penalty of not more than one hundred dollars (\$100.00).

Regardless of whether an institution does its own removal and disposal of motor vehicles or contracts with another person to do so, the institution shall provide a hearing procedure for the owner. For purposes of this subsection, the definitions in G.S. 20-219.9 apply:

- (1) If the institution operates in such a way that the person who tows the vehicle is responsible for collecting towing fees, all provisions of Article 7A, Chapter 20, apply.
- (2) If the institution operates in such a way that it is responsible for collecting towing fees, it shall:
  - a. Provide by contract or ordinance for a schedule of reasonable towing fees,
  - b. Provide a procedure for a prompt fair hearing to contest the towing,

- c. Provide for an appeal to district court from that hearing,
- d. Authorize release of the vehicle at any time after towing by the posting of a bond or paying of the fees due, and
- e. If the institution chooses to enforce its authority by sale of the vehicle, provide a sale procedure similar to that provided in G.S. 44A-4, 44A-5, and 44A-6, except that no hearing in addition to the probable cause hearing is required. If no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the institution may destroy it.

(c) The trustees may by rules, regulations, or ordinances provide for a system of registration of all motor vehicles where the owner or operator does park on the campus or keeps said vehicle on the campus. The trustees shall cause to be posted at appropriate places on campus notice to the public of applicable parking and traffic rules, regulations, and ordinances governing the campus over which it has jurisdiction. The trustees may by rules, regulations, or ordinances establish or cause to have established a system of citations that may be issued to owners or operators of motor vehicles who violate established rules, regulations, or ordinances. The trustees shall provide for the administration of said system of citations; establish or cause to be established a system of fines to be levied for the violation of established rules, regulations and ordinances; and enforce or cause to be enforced the collection of said fines. The fine for each offense shall not exceed twenty-five dollars (\$25.00). The trustees shall be empowered to exercise the right to prohibit repeated violators of such rules, regulations, or ordinances from parking on the campus.

(d) The clear proceeds of all civil penalties collected pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1971, c. 795, ss. 1-3; 1979, c. 462, s. 2; 1983, c. 420, s. 4; 1985, c. 764, s. 38; 2012-142, s. 8.9.)

**§ 115D-21.1. Campus law enforcement agencies.**

(a) The board of trustees of any community college may establish a campus law enforcement agency and employ campus police officers. These officers shall meet the requirements of Article 1 of Chapter 17C of the General Statutes, shall take the oath of office prescribed by Article VI, Section 7 of the Constitution, and shall have all the powers of law enforcement officers generally. The territorial jurisdiction of a campus police officer shall include all property owned or leased to the community college employing the officer and that portion of any public road or highway passing through the property and immediately adjoining it, wherever located.

(b) The board of trustees of any community college that establishes a campus law enforcement agency under subsection (a) of this section may enter into joint agreements with the governing board of any municipality to extend the law enforcement authority of campus police officers into the municipality's jurisdiction and to determine the circumstances under which this extension of authority may be granted.

(c) The board of trustees of any community college that establishes a campus law enforcement agency under subsection (a) of this section may enter into joint agreements with the governing board of any county, with the consent of the sheriff, to extend the law enforcement authority of campus police officers into the county's jurisdiction and to determine the circumstances under which this extension of authority may be granted. (1999-68, s. 1; 2018-5, s.17.1(a).)

**§ 115D-21.5. NC Career Coach Program.**

(a) Purpose. – There is established the NC Career Coach Program to place community college career coaches in high schools to assist students with determining career goals and identifying community college programs that would enable students to achieve these goals.

(b) Memorandum of Understanding. – The board of trustees of a community college and a local board of education of a local school administrative unit within the service area of the community college shall enter into a memorandum of understanding for the placement of career coaches employed by the board of trustees of the community college in schools within the local school administrative unit. At a minimum, the memorandum of understanding shall include the following:

- (1) Requirement that the community college provides the following:
  - a. Hiring, training, and supervision of career coaches. The board of trustees may include a local board of education liaison on the hiring committee to participate in the decision making regarding hiring for the coach positions.
  - b. Salary, benefits, and all other expenses related to the employment of the career coach. The coach will be an employee of the board of trustees and will not be an agent or employee of the local board of education.
  - c. Development of pedagogical materials and technologies needed to enhance the advising process.
  - d. Criminal background checks required by the local school administrative unit for employees working directly with students.
  - e. Agreement that, while on any school campus, the career coach will obey all local board of education rules and will be subject to the authority of the school building administration.
- (2) Requirement that the local school administrative unit provides the following to career coaches:
  - a. Access to student records, as needed to carry out the coach's job responsibilities.
  - b. Office space on site appropriate for student advising.
  - c. Information technology resources, including, but not limited to, Internet access, telephone, and copying.
  - d. Initial school orientation and ongoing integration into the faculty and staff community.
  - e. Promotion of school-wide awareness of coach duties.
  - f. Facilitation of coach's access to individual classes and larger assemblies for the purposes of awareness-building.

(c) Application for NC Career Coach Program Funding. – The board of trustees of a community college and a local board of education of a local school administrative unit within the service area of the community college jointly may apply for available funds for NC Career Coach Program funding from the State Board of Community Colleges. The State Board of Community Colleges shall establish a process for award of funds as follows:

- (1) Advisory committee. – Establishment of an advisory committee, which shall include representatives from the NC Community College System, the Department of Public Instruction, the Department of Commerce, and at least three representatives of the business community, to review applications and make recommendations for funding awards to the State Board.
  - (2) Application submission requirements. – The State Board of Community Colleges shall require at least the following:
    - a. Evidence of a signed memorandum of understanding that meets, at a minimum, the requirements of this section.
    - b. Evidence that the funding request will be matched dollar-for-dollar with local funds. Matching funds may come from public or private sources.
  - (3) Awards criteria. – The State Board of Community Colleges shall develop criteria for consideration in determining the award of funds that shall include the following:
    - a. Consideration of the workforce needs of business and industry in the region.
    - b. Targeting of resources to enhance ongoing economic activity within the community college service area and surrounding counties.
    - c. Geographic diversity of awards.
- (d) Annual Report. –
- (1) The board of trustees of a community college that employs one or more career coaches shall report annually to the State Board of Community Colleges on implementation and outcomes of the program, including the following information:
    - a. Number of career coaches employed.
    - b. Number of local school administrative units served and names of schools in which career coaches are placed.
    - c. Number of students annually counselled by career coaches.
    - d. Impact of career coaches on student choices, as determined by a valid measure selected by the State Board of Community Colleges.
  - (2) The State Board of Community Colleges shall report annually no later than October 1 to the Joint Legislative Education Oversight Committee on the following:
    - a. A compilation of the information reported by the board of trustees of community colleges, as provided in subdivision (1) of this subsection.
    - b. Number and names of partnership applicants for NC Career Coach Program funding.
    - c. Number, names, and amounts of those awarded NC Career Coach Program funding. (2015-241, s. 10.14(a); 2018-5, s. 9.3.)

**§ 115D-22. State Retirement System for Teachers and State Employees; social security.**

Solely for the purpose of applying the provisions of Chapter 135 of the General Statutes of North Carolina, "Retirement System for Teachers and State Employees, Social Security," the institutions of this Chapter are included within the definition of the term "public school," and the institutional employees are included within the definition of the term "teacher," as these terms are defined in G.S. 135-1. (1963, c. 448, s. 23; 1979, c. 462, s. 2.)

**§ 115D-23. Workers' Compensation Act applicable to institutional employees.**

The provisions of Chapter 97 of the General Statutes of North Carolina, the Workers' Compensation Act, shall apply to all institutional employees. The State Board of Community Colleges shall make the necessary arrangements to carry out those provisions of Chapter 97 which are applicable to employees whose wages are paid in whole or in part from State funds. The State shall be liable for compensation, based upon the average weekly wage as defined in the act, of an employee regardless of the portion of his wage paid from other than State funds.

The board of trustees of each institution shall be liable for workers' compensation for employees whose salaries or wages are paid by the board entirely from local public or special funds. Each board of trustees is authorized to purchase insurance to cover workers' compensation liability and to include the cost of insurance in the annual budget of the institution.

The provisions of this section shall not apply to any person, firm or corporation making voluntary contributions to institutions for any purpose, and such a person, firm, or corporation shall not be liable for the payment of any sum of money under the provisions of this section. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 714, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1.)

**§ 115D-24. Waiver of governmental immunity from liability for negligence of agents and employees of institutions; liability insurance.**

The board of trustees of any institution, by obtaining liability insurance as provided in G.S. 115D-53, is authorized to waive its governmental immunity from liability for the death or injury of person or for property damage caused by the negligence or tort of any agent or employee of the board of trustees when the agent or employee is acting within the scope of his authority or the course of his employment. All automobiles, buses, trucks, or other motor vehicles intended primarily for use on the public roads and highways which are the property of a board of trustees shall be insured at all times with liability insurance as provided in G.S. 115D-53. Governmental immunity shall be deemed to have been waived by the act of obtaining liability insurance, but only to the extent that the board is indemnified for the negligence or torts of its agents and employees and only as to claims arising after the procurement of liability insurance and while such insurance is in force. (1963, c. 448, s. 23; 1979, c. 462, s. 2.)

**§ 115D-25. Purchase of annuity or retirement income contracts for employees by local boards of trustees.**

Notwithstanding any provision of law relating to salaries or salary schedules for the pay of faculty members, administrative officers, or any other employees of community colleges, the board of trustees of any of the above institutions may authorize the finance officer or agent of same to enter into annual contracts with any of the above officers, agents and employees which provide for reductions in salaries below the total established compensation or salary schedule for a term of one year. The financial officer or agent shall use the funds derived from the reduction in the salary of

the officer, agent or employee to purchase a nonforfeitable annuity or retirement income contract for the benefit of said officer, agent or employee. An officer, agent or employee who has agreed to a salary reduction for this purpose shall not have the right to receive the amount of the salary reduction in cash or in any other way except the annuity or retirement income contract. Funds used for the purchase of an annuity or retirement income contract shall not be in lieu of any amount earned by the officer, agent or employee before his election for a salary reduction has become effective. The agreement for salary reductions referred to in this section shall be effected under any necessary regulations and procedures adopted by the State Board of Community Colleges and on forms prepared by the State Board of Community Colleges. Notwithstanding any other provisions of this section or law, the amount by which the salary of an officer, agent or employee is reduced pursuant to this section shall not be excluded, but shall be included, in computing and making payroll deductions for social security and retirement system purposes, and in computing and providing matching funds for retirement system purposes.

In lieu of the annuity and related contracts provided for under this section, interests in custodial accounts pursuant to Section 401(f), Section 403(b)(7), and related sections of the Internal Revenue Code of 1986 as amended may be purchased by local boards of trustees for the benefit of qualified employees under this section with the funds derived from the reduction in the salaries of such employees. (1965, c. 366; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1987, c. 564, s. 11; 1989, c. 526, s. 2; 2015-169, s. 1.)

#### **§ 115D-25.1. Dependent care assistance program.**

The State Board of Community Colleges is authorized to provide eligible employees of constituent institutions a program of dependent care assistance as available under Section 129 and related sections of the Internal Revenue Code of 1986, as amended. The State Board may authorize constituent institutions to enter into annual agreements with employees who elect to participate in the program to provide for a reduction in salary. With the approval of the Director of the Budget, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may be used to pay some or all of the administrative expenses of the program. Should the State Board decide to contract with a third party to administer the terms and conditions of a program of dependent care assistance, it may select a contractor only upon a thorough and completely competitive procurement process. (1989, c. 458, s. 2; 1991 (Reg. Sess., 1992), c. 1044, s. 14(c); 1993, c. 561, s. 42; 1993 (Reg. Sess., 1994), c. 769, s. 7.28A; 1997-443, s. 33.20(a); 1999-237, s. 28.27(a).)

#### **§ 115D-25.2. Flexible Compensation Plan.**

Notwithstanding any other provisions of law relating to the salaries of employees of community college boards of trustees, the State Board of Community Colleges is authorized to provide a plan of flexible compensation to eligible employees of constituent institutions for benefits available under Section 125 and related sections of the Internal Revenue Code of 1986 as amended. This plan shall not include those benefits provided to employees under Articles 1, 3B, and 6 of Chapter 135 of the General Statutes nor any vacation leave, sick leave, or any other leave that may be carried forward from year to year by employees as a form of deferred compensation. If a plan of flexible compensation is offered, then a TRICARE supplement shall be offered. In providing a plan of flexible compensation, the State Board may authorize constituent institutions to enter into agreements with their employees for reductions in the salaries of employees electing to participate in the plan of flexible compensation provided by this section. With the approval of

the Director of the Budget, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may be used to pay some or all of the administrative expenses of the program. Should the State Board decide to contract with a third party to administer the terms and conditions of a plan of flexible compensation as provided by this section, it may select such a contractor only upon a thorough and completely advertised competitive procurement process. (1989 (Reg. Sess., 1990), c. 1059, s. 2; 1991 (Reg. Sess., 1992), c. 1044, s. 14(g); 1993, c. 561, s. 42; 1993 (Reg. Sess., 1994), c. 769, s. 7.28A; 1997-443, s. 33.20(a); 1999-237, s. 28.27(a); 2013-292, s. 2.)

### **§ 115D-25.3. Voluntary shared leave.**

(a) The State Board of Community Colleges, in cooperation with the State Board of Education and the State Human Resources Commission, shall adopt rules and policies to allow any employee at a community college to share leave voluntarily with an immediate family member who is an employee of a community college, public school, or State agency; and with a coworker's immediate family member who is an employee of a community college, public school, or State agency. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Board of Community Colleges, in cooperation with the State Human Resources Commission, shall adopt rules and policies consistent with policies of the Commission to allow any employee at a community college to share leave voluntarily with a nonfamily member who is an employee of a community college. A community college employee who donates sick leave to a community college employee who is a nonfamily member shall not donate more than five days of sick leave per year to any one nonfamily community college employee. The combined total of sick leave donated to a community college employee from nonfamily community college employee donors shall not exceed 20 days per year. Donated sick leave shall not be used for retirement purposes and community college employees who donate sick leave shall be notified in writing of the consequences of donating sick leave in regard to State retirement system service credit. (2003-9, s. 3; 2003-284, s. 30.14A(c); 2013-382, s. 9.1(c); 2016-94, s. 36.19.)

### **§ 115D-25.4. Department of State Treasurer-sponsored 403(b) option.**

(a) In addition to the opportunities for local boards of trustees to offer section 403(b) of the Internal Revenue Code of 1986 retirement annuities and/or mutual funds to their employees under G.S. 115D-25, local boards of trustees may also offer the "North Carolina Public School Teachers' and Professional Educators' Investment Plan" as operated by the Department of State Treasurer.

(b) The criteria in this subsection apply to the Department of State Treasurer's 403(b) offerings to employees of local boards of trustees under this section:

- (1) Annuity contracts, trust accounts, and/or custodial accounts shall be administered by a qualified third-party administrator that shall, under written agreement with the Department of State Treasurer, provide custodial, record-keeping, and administrative services. The third-party administrator may also be the selected vendor for the North Carolina Public School Teachers' and Professional Educators' Investment Plan.

For local boards of trustees as employers choosing to participate in the North Carolina Public School Teachers' and Professional Educators' Investment Plan, the third-party administrator shall, at a minimum, provide the following:

- a. Maintain a written plan document.
  - b. Review hardship withdrawal requests, loan requests, and other disbursements permitted under section 403(b) of the Internal Revenue Code of 1986.
  - c. Maintain specimen salary reduction agreements for the employer and employees of that employer to initiate payroll deferrals.
  - d. Monitor maximum contributions.
  - e. Coordinate responses to the Internal Revenue Service in any case of an IRS audit.
  - f. Generate educational communication materials to employees concerning the enrollment process, program eligibility, and investment options.
  - g. Maintain internal reports to ensure compliance with section 403(b) of the Internal Revenue Code and Title 26 of the Code of Federal Regulations.
  - h. Provide compliance monitoring/oversight for all 403(b) plans established under G.S. 115D-25 within each participating local board of trustees plan by creating and establishing the necessary connections and processes with existing and future vendors.
  - i. Keep an updated schedule of vendor fees and commissions as to the Department's statewide plan of 403(b) offerings.
- (2) Governance and oversight of the North Carolina Public School Teachers' and Professional Educators' Investment Plan will be performed under Article 5 of Chapter 135 of the General Statutes by the Department of State Treasurer and the Supplemental Retirement Board of Trustees established pursuant to G.S. 135-96. Because of the administrative and record-keeping duties enumerated in subdivision (1) of this subsection, any existing vendor of a 403(b) with a participating employer must either agree to share data with the State's 403(b) vendor under this provision (so as to permit oversight over contribution limits, loans, and hardship withdrawals) or be directed by the participating employer to cease accepting new contributions, loans, and hardship withdrawals.
- (3) Investment options shall be solely determined by the Department of State Treasurer and the Supplemental Retirement Board of Trustees consistent with section 403(b) of the Internal Revenue Code of 1986, as amended.
- (4) Investment staff of the Department of State Treasurer may make recommendations to the State Treasurer and the Supplemental Retirement Board of Trustees as to appropriate investment options. Pursuant to G.S. 135-96, the State Treasurer and Board of Trustees shall have sole



responsibility for the selection of the vendor, third-party administrator, providers of investment options, and any other service provider for the North Carolina Public School Teachers' and Professional Educators' Investment Plan.

- (5) All contributions made in accordance with the provisions of section 403(b) of the Internal Revenue Code of 1986, as amended, and this section shall be remitted directly to the administrator and held by the administrator in a custodial account on behalf of each participating employee. Any investment gains or losses shall be credited to those accounts. The forms of payment and disbursement procedures shall be consistent with those generally offered by similar annuity contracts, trust accounts, and custodial accounts and applicable federal and State statutes governing those contracts and accounts.
- (6) Any local board of trustees may elect to make contributions to the employee's account on behalf of the employee. The local board of trustees shall take whatever action is necessary to implement this section.
- (7) The design and administration of annuity contracts, trust accounts, and custodial accounts under this provision shall comply with all applicable provisions of the Internal Revenue Code of 1986, as amended. (2015-169, s. 2; 2016-108, s. 7(b).)

**§ 115D-26. Conflict of interest.**

All local trustees and employees of community colleges covered under this Chapter are subject to the conflict of interest provisions found in G.S. 14-234. (1981, c. 157, s. 5; 1987, c. 564, s. 9; 2001-409, s. 5.)

Article 2A.

Privacy of Employee Personnel Records.

**§ 115D-27. Personnel files not subject to inspection.**

Personnel files of employees of boards of trustees, former employees of boards of trustees, or applicants for employment with boards of trustees shall not be subject to inspection and examination as authorized by G.S. 132-6. For purposes of this Article, a personnel file consists of any information gathered by the board of trustees which employs an individual, previously employed an individual, or considered an individual's application for employment, and which information relates to the individual's application, selection or nonselection, promotion, demotion, transfer, leave, salary, suspension, performance evaluation, disciplinary action, or termination of employment wherever located or in whatever form. (1991, c. 84. s. 3.)

**§ 115D-28. Certain records open to inspection.**

(a) Each board of trustees shall maintain a record of each of its employees, showing the following information with respect to each employee:

- (1) Name.
- (2) Age.

- (3) Date of original employment or appointment.
- (4) The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the board has the written contract or a record of the oral contract in its possession.
- (5) Current position.
- (6) Title.
- (7) Current salary.
- (8) Date and amount of each increase or decrease in salary with that community college.
- (9) Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with that community college.
- (10) Date and general description of the reasons for each promotion with that community college.
- (11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the community college. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the board of trustees setting forth the specific acts or omissions that are the basis of the dismissal.
- (12) The office or station to which the employee is currently assigned.

(b) For the purposes of this section, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(c) Subject only to rules and regulations for the safekeeping of records adopted by the board of trustees, every person having custody of the records shall permit them to be inspected and examined and copies made by any person during regular business hours. Any person who is denied access to any record for the purpose of inspecting, examining or copying the record shall have a right to compel compliance with the provisions of this section by application to a court of competent jurisdiction for a writ of mandamus or other appropriate relief. (1991, c. 84, s. 3; 2007-508, s. 2; 2010-169, s. 18(c).)

**§ 115D-29. Confidential information in personnel files; access to information.**

(a) All information contained in a personnel file, except as otherwise provided in this Article, is confidential and shall not be open for inspection and examination except to the following persons:

- (1) The employee, applicant for employment, former employee, or his properly authorized agent, who may examine his own personnel file at all reasonable times in its entirety except for letters of reference solicited prior to employment;
- (2) The president and other supervisory personnel;
- (3) Members of the board of trustees and the board's attorney;
- (4) A party by authority of a subpoena or proper court order may inspect and examine a particular confidential portion of an employee's personnel file; and

- (5) An official of an agency of the federal government, State government or any political subdivision thereof. Such an official may inspect any personnel records when such [an] inspection is deemed by the college of the employee, applicant, or former employee whose record is to be inspected as necessary and essential to the pursuance of a proper function of said agency; provided, however, that such information shall not be divulged for purposes of assisting in a criminal prosecution, nor for purposes of assisting in a tax investigation.

(b) Notwithstanding any other provision of this Article, any president may, in his discretion, or shall at the direction of the board of trustees, inform any person or corporation of any promotion, demotion, suspension, reinstatement, transfer, separation, dismissal, employment or nonemployment of any applicant, employee or former employee employed by or assigned to the board of trustees or whose personnel file is maintained by the board and the reasons therefor and may allow the personnel file of the person or any portion to be inspected and examined by any person or corporation provided that the board has determined that the release of the information or the inspection and examination of the file or any portion is essential to maintaining the integrity of the board or to maintaining the level or quality of services provided by the board; provided, that prior to releasing the information or making the file or any portion available as provided herein, the president shall prepare a memorandum setting forth the circumstances which he and the board deem to require the disclosure and the information to be disclosed. The memorandum shall be retained in the files of the president and shall be a public record.

(c) Repealed by Session Laws 2016-108, s. 2(f), effective July 22, 2016. (1991, c. 84, s. 3; 2008-194, s. 11(c); 2016-108, s. 2(f).)

### **§ 115D-30. Remedy of employee objecting to material in file.**

An employee, former employee or applicant for employment who objects to material in his file may place in his file a statement relating to the materials he considers to be inaccurate or misleading. An employee, former employee or applicant for employment who objects to material in his file because he considers it inaccurate or misleading, and the material has not been placed there in connection with a grievance procedure established by the board of trustees, may seek the removal of such material from the file through grievance procedures to be established by each board of trustees. (1991, c. 84, s. 3.)

## Article 3.

### Financial Support.

### **§ 115D-31. State financial support of institutions.**

(a) The State Board of Community Colleges shall be responsible for providing, from sources available to the State Board, funds to meet the financial needs of institutions, as determined by policies and regulations of the State Board, for the following budget items:

- (1) Plant Fund. – Furniture and equipment for administrative and instructional purposes, library books, and other items of capital outlay approved by the State Board. Provided, the State Board may, on an equal matching-fund basis from appropriations made by the State for the purpose, grant funds to individual institutions for the purchase of land,

construction and remodeling of institutional buildings determined by the State Board to be necessary for the instructional programs or administration of such institutions. For the purpose of determining amount of matching State funds, local funds shall include expenditures made prior to the enactment of this Chapter or prior to an institution becoming a community college pursuant to the provisions of this Chapter, when such expenditures were made for the purchase of land, construction, and remodeling of institutional buildings subsequently determined by the State Board to be necessary as herein specified, and provided such local expenditures have not previously been used as the basis for obtaining matching State funds under the provisions of this Chapter or any other laws of the State. Notwithstanding the provisions of this subdivision, G.S. 116-53(b), or G.S. 143C-4-5, appropriations by the State of North Carolina for capital or permanent improvements for community colleges may be matched with any prior expenditure of non-State funds for capital construction or land acquisition not already used for matching purposes.

- (2) Current Operating Expenses:
  - a. General administration. – Salaries and other costs as determined by the State Board necessary to carry out the functions of general administration.
  - b. Instructional services. – Salaries and other costs as determined by the State Board necessary to carry out the functions of instructional services.
  - c. Support services. – Salaries and other costs as determined by the State Board necessary to carry out the functions of support services.
- (3) Additional Support for Regional Institutions as Defined in G.S. 115D-2(4). – Matching funds to be used with local funds to meet the financial needs of the regional institutions for the items set out in G.S. 115D-32(a)(2)a. Amount of matching funds to be provided by the State under this section shall be determined as follows: The population of the administrative area in which the regional institution is located shall be called the "local factor," the combined populations of all other counties served by the institution shall be called the "State factor." When the budget for the items listed in G.S. 115D-32(a)(2)a has been approved under the procedures set out in G.S. 115D-45, the administrative area in which the regional institution is located shall provide a percentage to be determined by dividing the local factor by the sum of the local factor and the State factor. The State shall provide a percentage of the necessary funds to meet this budget, the percentage to be determined by dividing the State factor by the sum of the local factor and the State factor. If the local administrative area provides less than its proportionate share, the

amount of State funds provided shall be reduced by the same proportion as were the administrative area funds.

Wherever the word "population" is used in this subdivision, it shall mean the population of the particular area in accordance with the latest United States census.

(b) The State Board is authorized to accept, receive, use, or reallocate to the institutions any federal funds or aids that have been or may be appropriated by the government of the United States for the encouragement and improvement of any phase of the programs of the institutions.

(b1) A local community college may use all State funds allocated to it, except for Literacy funds and Customized Training funds, for any authorized purpose that is consistent with the college's Institutional Effectiveness Plan. The State Board of Community Colleges may authorize a local community college to use up to twenty percent (20%) of the State Literacy funds allocated to it to provide employability skills, job-specific occupational and technical skills, and developmental education instruction to students concurrently enrolled in an eligible community college literacy course.

Each local community college shall include in its Institutional Effectiveness Plan a section on how funding flexibility allows the college to meet the demands of the local community and to maintain a presence in all previously funded categorical programs.

(c) State funds appropriated to the State Board of Community Colleges for equipment and library books, except for funds appropriated to the Equipment Reserve Fund, shall revert to the General Fund 12 months after the close of the fiscal year for which they were appropriated. Encumbered balances outstanding at the end of each period shall be handled in accordance with existing State budget policies. The System Office shall identify to the Office of State Budget and Management the funds that revert at the end of the 12 months after the close of the fiscal year.

(d) State funds appropriated to the State Board of Community Colleges for the Equipment Reserve Fund shall be allocated to institutions in accordance with the equipment allocation formula for the fiscal period. An institution to which these funds are allocated shall spend the funds only in accordance with an equipment acquisition plan developed by the institution and approved by the State Board.

These funds shall not revert and shall remain available until expended in accordance with an approved plan.

(e) If receipts for community college tuition and fees exceed the amount certified in General Fund Codes at the end of a fiscal year, the State Board of Community Colleges shall transfer the amount of receipts and fees above those budgeted to the Enrollment Growth Reserve. Funds in the Enrollment Growth Reserve shall not revert to the General Fund and shall remain available to the State Board until expended. The State Board may allocate funds in this reserve to colleges experiencing an enrollment increase greater than five percent (5%) of budgeted enrollment levels. (1963, c. 448, s. 23; 1973, c. 590, ss. 2, 3; c. 637, s. 1; 1979, c. 462, s. 2; c. 896, s. 13; c. 946, s. 1; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 157, s. 2; 1985, c. 757, s. 146; 1987, c. 564, ss. 9, 12; 1995, c. 324, s. 16; 1998-212, s. 10.2(a); 1999-84, s. 11; 1999-237, s. 9.3(a); 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2006-203, s. 38; 2010-31, s. 8.2; 2011-145, s. 8.4; 2015-241, s. 10.2(b).)

#### **§ 115D-31.1. Liability insurance.**

Notwithstanding the provisions of G.S. 115D-32(a)(2)b2 and any other provision of the law to the contrary, boards of trustees of all institutions in this Chapter may use State funds to pay the lawful premiums of liability insurance as provided in this section. (1983, c. 761, s. 105.)

**§ 115D-31.2. Maintenance of plant.**

Notwithstanding any provisions of law to the contrary, any community college that has an out-of-county student head count served on the main campus of the college in excess of fifty percent (50%) of the total student head count as defined by the State Board of Community Colleges, shall be provided funds for the purpose of "operations of plant". Each college that qualifies for these funds shall receive a pro rata amount of the funds that are appropriated for this purpose. (1993, c. 321, s. 110; 2001-424, s. 30.13.)

**§ 115D-31.3. Institutional performance accountability.**

(a) Implementation of Accountability Measures and Performance Standards. – The State Board of Community Colleges shall adopt and implement a system of accountability measures and performance standards for the Community College System. At least once every three years, the State Board of Community Colleges shall review, and revise if necessary, the accountability measures and performance standards to ensure that they are appropriate for use in recognition of successful institutional performance. If the State Board determines that accountability measures and performance standards must be revised following a review required by this subsection, the State Board shall report to the Joint Legislative Education Oversight Committee prior to the implementation of any proposed revisions.

(b) through (d) Repealed by Session Laws 2000-67, s. 9.7, effective July 1, 2000.

(e) Mandatory Performance Measures. – The State Board of Community Colleges shall evaluate each college on the following performance measures:

- (1) Progress of basic skills students.
- (2) Repealed by Session Laws 2016-94, s. 10.1, effective July 1, 2016.
- (3) Performance of students who transfer to a four-year institution.
- (3a) Success rate of students in credit-bearing English courses.
- (3b) Success rate of students in credit-bearing Math courses.
- (4), (5) Repealed by Session Laws 2016-94, s. 10.1, effective July 1, 2016.
- (5a) Progress of first-year curriculum students.
- (6) Repealed by Session Laws 2012-142, s. 8.5, effective July 1, 2012.
- (7) Curriculum student retention and graduation.
- (8) Repealed by Session Laws 2012-142, s. 8.5, effective July 1, 2012.
- (9) Attainment of licensure and certifications by students.

The State Board may also evaluate each college on additional performance measures.

(f) Publication of Performance Ratings. – Each college shall publish its performance on the measures set out in subsection (e) of this section (i) annually in its electronic catalog or on the Internet and (ii) in its printed catalog each time the catalog is reprinted.

The Community Colleges System Office shall publish the performance of all colleges on all measures.

(g) Recognition of Successful Institutional Performance. – For the purpose of recognition of successful institutional performance, the State Board of Community Colleges shall evaluate each college on the performance measures set out in subsection (e) of this section. Subject to the

availability of funds, the State Board may allocate funds among colleges based on the evaluation of each institution's performance, including at least the following components:

- (1) Program quality evaluated by determining a college's rate of student success on each measure as compared to a systemwide performance baseline and goal.
- (2) Program impact on student outcomes evaluated by the number of students succeeding on each measure.

A college may use funds allocated to it pursuant to this subsection for one-time, performance-based bonuses for faculty and staff. Notwithstanding G.S. 135-1(7a), a bonus awarded with funds pursuant to this subsection is not compensation under Article 1 of Chapter 135 of the General Statutes.

(g1) Carryforward of Funds Allocated Based on Performance. – A college that receives funds under subsection (g) of this section may retain and carry forward an amount up to or equal to its performance-based funding allocation for that year into the next fiscal year.

(h) through (j) Repealed by Session Laws 2013-360, s. 10.5(a), effective July 1, 2013. (1999-237, s. 9.2(a); 2000-67, s. 9.7; 2001-186, s. 1; 2006-66, s. 8.9(a); 2007-230, s. 1; 2007-484, s. 29.5(a); 2007-527, s. 19; 2012-142, s. 8.5; 2013-360, s. 10.5(a); 2014-115, s. 28(f); 2016-94, s. 10.1; 2018-5, s. 9.8.)

### **§ 115D-32. Local financial support of institutions.**

(a) The tax-levying authority of each institution shall be responsible for providing, in accordance with the provisions of G.S. 115D-33 or 115D-34, as appropriate, adequate funds to meet the financial needs of the institutions for the following budget items:

- (1) Plant Fund: Acquisition of land; erection of all buildings; alterations and additions to buildings; purchase of automobiles, buses, trucks, and other motor vehicles; purchase or rental of all equipment necessary for the maintenance of buildings and grounds and operation of plants; and purchase of all furniture and equipment not provided for administrative and instructional purposes.
- (2) Current expenses:
  - a. Plant operation and maintenance:
    1. Salaries of janitors, maids, watchmen, maintenance and repair employees.
    2. Cost of fuel, water, power, and telephone services.
    3. Cost of janitorial supplies and materials.
    4. Cost of operation of motor vehicles.
    5. Cost of maintenance and repairs of buildings and grounds.
    6. Maintenance and replacement of furniture and equipment provided from local funds.
    7. Maintenance of plant heating, electrical, and plumbing equipment.
    8. Maintenance of all other equipment, including motor vehicles, provided by local funds.
    9. Rental of land and buildings.

10. Any other expenses necessary for plant operation and maintenance.
- b. Support services:
  1. Cost of insurance for buildings, contents, motor vehicles, workers' compensation for institutional employees paid from local funds, and other necessary insurance.
  2. Any tort claims awarded against the institution due to the negligence of the institutional employees.
  3. Cost of bonding institutional employees for the protection of local funds and property.
  4. Cost of elections held in accordance with G.S. 115D-33 and 115D-35.
  5. Legal fees incurred in connection with local administration and operation of the institution.

(b) The board of trustees of each institution may apply local public funds provided in accordance with G.S. 115D-33(a), as appropriate, or private funds, or both, to the supplementation of items of the current expense budget financed from State funds, provided a budget is submitted in accordance with G.S. 115D-54.

(c) The board of trustees of each institution may apply institutional funds provided in accordance with G.S. 115D-54(b)(3) for such purposes as may be determined by the board of trustees of the institution.

(d) The counties that agree to have satellite campuses of community colleges located in them accept the maintenance and utility costs of these satellite campuses. (1963, c. 448, s. 23; 1979, c. 462, s. 2; 1981, c. 157, s. 3; 1985, c. 757, s. 148(a); 1987, c. 564, s. 11; 1995, c. 509, s. 64; 1999-84, s. 5.)

**§ 115D-33. Providing local public funds for institutions established under this Chapter; elections.**

(a) Except as provided in G.S. 115D-34, the tax-levying authority of an institution may provide for local financial support of the institution as follows:

- (1) By appropriations from nontax revenues in a manner consistent with the Local Government Budget and Fiscal Control Act, provided the continuing authority to make such appropriations shall have been approved by a majority of the qualified voters of the administrative area who shall vote on the question in an election held for such purpose, or
- (2) By a special annual levy of taxes within a maximum annual rate which maximum rate shall have been approved by a majority of the qualified voters of the administrative area who shall vote on the question of establishing or increasing the maximum annual rate in an election held for such purpose or both, and
- (3) By issuance of bonds, in the case of capital outlay funds, provided that each issuance of bonds shall be approved by a majority of the qualified voters of each county of the administrative area who shall vote on the question in an election held for that purpose. All bonds shall be subject to the Local Government Finance Act (Chapter 159) and shall be issued



pursuant to Subchapter IV, Long-Term Financing, (§ 159-43 et seq.) of Chapter 159 of the General Statutes.

(b) At the election on the question of approving authority of the board of commissioners of each county in an administrative area (the tax-levying authority) to appropriate funds from nontax revenues or a special annual levy of taxes or both, the ballot furnished the qualified voters in each county may be worded substantially as follows: "For the authority of the board of commissioners to appropriate funds either from nontax revenues or from a special annual levy of taxes not to exceed an annual rate of \_\_\_\_\_ cents per one hundred dollars (\$100.00) of assessed property valuation, or both, for the financial support of \_\_\_\_\_ (name of the institution)" plus any other pertinent information and "Against the authority of the board of commissioners, etc.," with a square before each proposition, in which the voter may make a cross mark (X), but any other form of ballot containing adequate information and properly stating the question to be voted upon shall be construed as being in compliance with this section.

(c) The question of approving authority to appropriate funds, to levy special taxes and the question of approving an issue of bonds, when approval of each or both shall be necessary for the establishment or conversion of an institution, shall be submitted at the same election.

(d) All elections shall be held in the same manner as elections held under Article 4, Chapter 159, of the General Statutes, the Local Government Bond Act, and shall be held on a date permitted by G.S. 163-287.

(e) The State Board of Community Colleges shall ascertain that authority to provide adequate funds for the establishment and operation of an institution has been approved by the voters of a proposed administrative area before favorably recommending approval of the establishment of an institution.

(f) Notwithstanding any present provisions of this Chapter, the tax-levying authority of each institution may at its discretion and upon its own motion provide by appropriations of nontax revenue, tax revenue, or both, funds for the support of institutional purposes as set forth in G.S. 115D-32; but nothing herein shall be construed to authorize the issuance of bonds without a vote of the people. (1963, c. 448, s. 23; 1971, c. 402; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1983, c. 717, s. 27.3; 2013-381, s. 10.18; 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

#### **§ 115D-34. Providing local public funds for institutions previously established.**

(a) For counties in which, immediately prior to the enactment of this Chapter, there was in operation or authorized a public community college or industrial education center which hereafter shall be operated pursuant to the provisions of this Chapter, the following provisions shall apply in providing local financial support for each such institution:

- (1) Community colleges: The board of commissioners of a county in which is located a public community college heretofore operated or authorized to operate pursuant to Article 3, Chapter 116, of the General Statutes of North Carolina, may continue to levy special taxes annually for the local financial support of the institution as a community college as provided in G.S. 115D-32, to the maximum rate last approved by the voters of the county in accordance with the above Article. The board of commissioners may also provide all or part of such funds by appropriations, in a manner consistent with the Local Government Budget and Fiscal Control Act,

from nontax revenues. The question of increasing the maximum annual rate of a special tax may be submitted at an election held in accordance with the provisions of G.S. 115D-33(d) and the appropriate provisions of G.S. 115D-35.

- (2) Industrial education centers: The board of commissioners of a county in which is located an industrial education center heretofore operated or authorized to operate as part of the public school system and which hereafter shall be operated as a community college as defined in this Chapter may levy special taxes annually at a rate sufficient to provide funds for the financial support of the institute or college as required by G.S. 115D-32(a). The board of commissioners may also provide all or part of such funds by appropriations, in a manner consistent with the Local Government Budget and Fiscal Control Act, from nontax revenues. The board of commissioners is authorized to provide additional funds, either by special tax levies or by appropriations from nontax revenues, or both, to an amount equal to that required to be provided above, for the purpose of supplementing the current expense budget of the institute or college financed from State funds.

(b) The board of commissioners of a county in which is located one of the above public community colleges or industrial education centers may provide funds for capital outlay for such institution by the issuance of bonds. All bonds shall be issued in accordance with the appropriate provisions of G.S. 115D-33 and 115D-35.

(c) Public funds provided a community college or industrial education center prior to its becoming subject to the provisions of this Chapter and which remain to the credit of the institution upon its becoming subject to these provisions shall be expended only for the purposes prescribed by law when such funds were provided the institution. (1963, c. 448, s. 23; 1965, c. 842, s. 1; 1979, c. 462, s. 2; 1987, c. 564, ss. 20, 34.)

**§ 115D-35. Requests for elections to provide funds for institutions.**

(a) Formal requests for elections on the question of authority to appropriate nontax revenues or levy special taxes, or both, and to issue bonds, when such elections are to be held for the purpose of establishing an institution, shall be originated and submitted only in the following manner:

- (1) Proposed multiple-county administrative areas: Formal requests for elections may be submitted jointly by all county boards of education in the proposed administrative area, or by petition of fifteen percent (15%) of the number of qualified voters of the proposed area who voted in the last preceding election for Governor, to the boards of commissioners of all counties in the proposed area, who shall fix the time for such election by joint resolution on a date permitted by G.S. 163-287, which shall be entered in the minutes of each board.
- (2) Proposed single-county administrative area: Formal requests shall be submitted by the board of education of any public school administrative unit within the county of the proposed administrative area or by petition

of fifteen percent (15%) of the number of qualified voters of the county who voted in the last preceding election for Governor, to the board of commissioners of the county of the proposed administrative area, who shall fix the time for such election by resolution on a date permitted by G.S. 163-287, which shall be entered in the minutes of the board.

(b) Formal requests for elections on any of the questions specified in (a) above, or on the question of increasing the maximum annual rate of special taxes for the financial support of an institution with a properly established board of trustees, may be submitted to the tax-levying authority only by such board of trustees.

(c) All formal requests for elections regarding the levy of special taxes shall state the maximum annual rate for which approval is to be sought in an election.

(d) Nothing in this section shall be construed to deny or limit the power of the tax-levying authority of an institution to hold elections, of its own motion, on any or all the questions provided in this section, subject to the provisions of this Article. (1963, c. 448, s. 23; 1979, c. 462, s. 2; 2013-381, s. 10.19; 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

**§ 115D-36. Elections on question of the addition of a college transfer program at an institution and issuance of bonds therefor.**

Whenever the board of trustees of an institution requests the State Board of Community Colleges to authorize the addition of a college transfer program, the Board shall require, as a prerequisite to such addition:

- (1) The authorization by the voters of the administrative area of an annual levy of taxes within a specified maximum annual rate sufficient to provide the required local financial support for the institution after the addition of the college transfer program, in an election held in accordance with the appropriate provisions of G.S. 115D-33 and 115D-35.
- (2) The approval by the voters of the administrative area of the issuance of bonds for capital outlay necessary for the institution after the addition of the college transfer program, in an election held in accordance with the appropriate provisions of G.S. 115D-33 and 115D-35. (1968, c. 443, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1987, c. 564, s. 5.)

**§ 115D-37. Payment of expenses of special elections under Chapter.**

The cost of special elections held under the authority of this Chapter in connection with the establishment of an institution shall be paid out of the general fund of the county or counties which shall conduct such elections. All special elections held on behalf of a duly established institution shall be paid by such institution and the expenses may be included in the annual institutional budgets. (1963, c. 448, s. 23; 1979, c. 462, s. 2.)

**§ 115D-38. Authority to issue bonds and notes, to levy taxes and to appropriate nontax revenues.**

Counties are authorized to issue bonds and notes and to levy special taxes to meet payments of principal and interest on such bonds or notes and to levy special taxes for the special purpose

of providing local financial support of an institution and otherwise to appropriate nontax revenues for the financial support of an institution, in the manner and for the purposes provided in this Chapter.

Taxes authorized by this section are declared to be for a special purpose and may be levied notwithstanding any constitutional limitation or limitations imposed by any general or special law. (1963, c. 448, s. 23; 1979, c. 462, s. 2.)

### **§ 115D-39. Student tuition and fees.**

(a) The State Board of Community Colleges shall fix and regulate all tuition and fees charged to students for applying to or attending any institution pursuant to this Chapter.

The receipts from all student tuition and fees, other than student activity fees, shall be State funds and shall be deposited as provided by regulations of the State Board of Community Colleges.

The legal resident limitation with respect to tuition, set forth in G.S. 116-143.1 and G.S. 116-143.3, shall apply to students attending institutions operating pursuant to this Chapter; provided, however, that when an employer other than the Armed Forces, as that term is defined in G.S. 116-143.3, pays tuition for an employee to attend an institution operating pursuant to this Chapter and when the employee works at a North Carolina business location, the employer shall be charged the in-State tuition rate; provided further, however, a community college may charge in-State tuition to up to one percent (1%) of its out-of-state students, rounded up to the next whole number, to accommodate the families transferred by business, the families transferred by industry, or the civilian families transferred by the Armed Forces, consistent with the provisions of G.S. 116-143.3, into the State. Notwithstanding these requirements, a refugee who lawfully entered the United States and who is living in this State shall be deemed to qualify as a domiciliary of this State under G.S. 116-143.1(a)(1) and as a State resident for community college tuition purposes as defined in G.S. 116-143.1(a)(2). Also, a nonresident of the United States who has resided in North Carolina for a 12-month qualifying period and has filed an immigrant petition with the United States Immigration and Naturalization Service shall be considered a State resident for community college tuition purposes.

(a1) In addition, federal law enforcement officers, firefighters, EMS personnel, and rescue and lifesaving personnel whose permanent duty station is within North Carolina and who do not otherwise qualify for tuition waivers under G.S. 115D-5(b)(2a) shall also be eligible for the State resident community college tuition rate for courses that support their organizations' training needs and are approved for this purpose by the State Board of Community Colleges.

(b) In addition, any person lawfully admitted to the United States who satisfied the qualifications for assignment to a public school set out under G.S. 115C-366 and graduated from the public school to which the student was assigned shall also be eligible for the State resident community college tuition rate. This subsection does not make a person a resident of North Carolina for any other purpose.

(c) In addition, a person sponsored under this subsection who is lawfully admitted to the United States is eligible for the State resident community college tuition rate. For purposes of this subsection, a North Carolina nonprofit entity is a charitable or religious corporation as defined in G.S. 55A-1-40 that is incorporated in North Carolina and that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code, or a civic league incorporated in North Carolina under Chapter 55A of the General Statutes that is exempt from taxation under section 501(c)(4) of the Internal Revenue Code. A nonresident of the United States is sponsored by a North Carolina nonprofit entity if the student resides in North Carolina while attending the community college

and the North Carolina nonprofit entity provides a signed affidavit to the community college verifying that the entity accepts financial responsibility for the student's tuition and any other required educational fees. Any North Carolina nonprofit entity that sponsors a nonresident of the United States under this subsection may sponsor no more than five nonresident students annually under this subsection. This subsection does not make a person a resident of North Carolina for any other purpose.

(d) A community college may add the cost of textbooks purchased at the college's bookstore to the tuition rates established pursuant to subsection (a) of this section for all purposes associated with billing the armed services for the enrollment of members of the armed services, as defined in G.S. 116-143.3, if the student's branch of the armed services permits the addition of textbooks to tuition costs in its tuition assistance program. The college may retain the funds attributable to the cost of the textbooks. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 157, s. 4; 1983 (Reg. Sess., 1984), c. 1034, s. 58; 1989, c. 752, s. 85; 1991 (Reg. Sess., 1992), c. 1044, s. 25(a); 1993, c. 561, s. 50(a); 1996, 2nd Ex. Sess., c. 18, s. 17.1(a); 2000-67, s. 9.8; 2003-284, ss. 8.16(b), 8.16A(a); 2010-31, s. 8.4(b); 2011-145, s. 8.12(d); 2011-183, s. 80; 2011-184, s. 1; 2016-94, s. 10.4(b).)

#### **§ 115D-39.1. Tuition surcharge.**

(a) Notwithstanding the provisions of G.S. 115D-39(a), a community college may, with the approval of the State Board of Community Colleges:

- (1) Implement a tuition surcharge of up to thirty-three and one-third percent (33 1/3%) of the statewide tuition rate to fund a new instructional program that is necessary to attract industry to the area, and
- (2) Use the proceeds of an endowed scholarship, consistent with the terms of the endowment, to offset the cost of the tuition charge.

(b) All students enrolled in the new program, except for students for whom tuition and registration are waived by law or regulation, shall be charged the tuition surcharge. The funds collected from the endowment shall be deposited into an unrestricted institutional fund account at the community college.

(c) This section applies only to an endowed scholarship in excess of five million dollars (\$5,000,000).

(d) The State Board shall adopt rules to implement this section. (2007-367, s. 1; 2015-264, s. 64.)

**§ 115D-40.** Repealed by Session Laws 1999-237, s.9.4(c).

#### **§ 115D-40.1. Financial Assistance for Community College Students.**

(a) Need-Based Assistance Program. – It is the intent of the General Assembly that the Community College System make these financial aid funds available to the neediest students who are not eligible for other financial aid programs that fully cover the required educational expenses of these students. The State Board may use some of these funds as short-term loans to students who anticipate receiving the federal HOPE or Lifetime Learning Tax Credits.

(b) Targeted Assistance. – Notwithstanding subsection (a) of this section, the State Board may allocate up to ten percent (10%) of the funds appropriated for Financial Assistance for Community College Students to the following students:

- (1) Students who enroll in low-enrollment programs that prepare students for high-demand occupations.
- (2) Students with disabilities who have been referred by the Department of Health and Human Services, Division of Vocational Rehabilitation, and are enrolled in a community college.

(c) Administration of Program. – The State Board shall adopt rules and policies for the disbursement of the financial assistance provided in subsections (a) and (b) of this section. Degree, diploma, and certificate students must complete a Free Application for Federal Student Aid (FAFSA) to be eligible for financial assistance. The State Board may contract with the State Education Assistance Authority for administration of these financial assistance funds. These funds shall not revert at the end of each fiscal year but shall remain available until expended for need-based financial assistance. The interest earned on the funds provided in subsections (a) and (b) of this section may be used to support the costs of administering the Community College Grant Program. If the interest earnings are not adequate to support the administrative costs, up to one percent (1%) of funds provided in subsection (a) of this section may be used to support the costs of administering the Community College Grant Program.

(d) Participation in Federal Loan Programs. – All community colleges shall participate in the William D. Ford Federal Direct Loan Program, unless the board of trustees of an institution adopts a resolution declining to participate in the Program. The State Board shall ensure that at least one counselor is available at each college to inform students about federal programs and funds available to assist community college students, including, but not limited to, Pell Grants, HOPE and Lifetime Learning Tax Credits, and, for participating colleges, the William D. Ford Federal Direct Loan Program, and to actively encourage students to utilize these federal programs and funds. The board of trustees of any institution that has declined to participate in the William D. Ford Federal Direct Loan Program through the adoption of a resolution may rescind the resolution and participate in the Program but shall not have the authority to again decline participation in the Program. (1999-237, s. 9.4(a), (b); 2001-229, ss. 1, 2; 2003-52, s. 1; 2003-385, s. 1; 2009-451, s. 8.4; 2010-31, s. 8.5(b); 2011-148, ss. 1, 2; 2011-154, ss. 1, 2; 2011-155, ss. 1, 2; 2011-178, ss. 1, 2; 2012-31, s. 1; 2012-142, s. 8.11(c); 2013-360, s. 10.13; 2013-410, s. 43.)

**§ 115D-40.2. Semester limitation on eligibility for North Carolina Community College grants.**

(a) Except as otherwise provided by this section, a student shall not receive a need-based grant from the North Carolina Community College Grant Program for more than six full-time academic semesters, or the equivalent if enrolled part-time.

(b) Upon application by a student, the community college may grant a waiver to the student who may then receive a grant from the North Carolina Community College Grant Program for the equivalent of one additional full-time academic semester if the student demonstrates that any of the following have substantially disrupted or interrupted the student's pursuit of a degree, diploma, or certificate: (i) a military service obligation, (ii) serious medical debilitation, (iii) a short-term or long-term disability, or (iv) other extraordinary hardship. The State Board shall establish policies and procedures to implement the waiver provided by this subsection. (2013-360, s. 11.15(c).)

**§ 115D-41. Restrictions on contracts with local school administrative units; use of community college facilities by public school students pursuant to cooperative programs.**

(a) Community college contracts with local school administrative units shall not be used by these agencies to supplant funding for a public school high school teacher providing courses offered pursuant to G.S. 115D-20(4) who is already employed by the local school administrative unit. In no event shall a community college contract with a local school administrative unit to provide high school level courses.

(b) Existing community college facilities that comply with the North Carolina State Building Code and applicable local ordinances for community college facilities may be used without modification for public school students in joint or cooperative programs such as middle or early college programs and dual enrollment programs. Designs for new community college facilities that comply with the North Carolina State Building Code and applicable local ordinances for community college facilities also may be used without modification for these students.

For the purpose of establishing Use and Occupancy Classifications, these programs shall be considered "Business – Group B" in the same manner as other community college uses. (1991 (Reg. Sess., 1992), c. 900, s. 82(a); 2006-66, s. 8.11(a); 2006-221, s. 5; 2009-206, s. 1; 2011-145, s. 7.1A(g).)

**§ 115D-42:** Repealed by Session Laws 2018-5, s. 9.6(a), effective July 1, 2018.

**§ 115D-43. Funds for an intercollegiate athletics program.**

No State funds, student tuition receipts, or student aid funds shall be used to create, support, maintain, or operate an intercollegiate athletics program at a community college. (2011-145, s. 8.10.)

**§ 115D-44 Reserved for future codification purposes.**

Article 4.

Budgeting, Accounting, and Fiscal Management.

**§§ 115D-45 through 115D-53. Recodified as §§ 115D-54 to 115D-58.12.**

Article 4A.

Budgeting, Accounting, and Fiscal Management.

**§ 115D-54. Preparation and submission of institutional budget.**

(a) By a date determined by the State Board, trustees of each institution shall prepare for submission a budget request as provided in G.S. 115D-54(b) on forms provided by the State Board of Community Colleges. The budget shall be based on estimates of available funds if provided by the funding authorities or as estimated by the institution. The State Current Fund shall be based on available funds. All other funds shall be based on needs as determined by the board of trustees and shall include the following:

- (1) State Current Fund.
- (2) County Current Fund.
- (3) Institutional Fund.
- (4) Plant Fund.

(b) The budget shall be prepared and submitted for approval according to the following procedures:

- (1) State Current Fund Budget. – The budget request shall contain the items of current operating expenses as provided in G.S. 115D-31 for which State funds are requested. The approving authority for the State current fund budget request shall be the board of trustees and the State Board of Community Colleges.
- (2) County Current Fund Budget. – The budget request shall contain the items of current operating expenses, as provided in G.S. 115D-32, for which county funds are requested. The approving authority for the county current fund budget request shall be the board of trustees and the local tax-levying authority. The State Board of Community Colleges shall have approving authority pursuant to G.S. 115D-33 with respect to required local funding.
- (3) Institutional Fund Budget. – The budget request shall contain the items of current operating expenses, loan funds, scholarship funds, auxiliary enterprises, State, private, and federal grants and contracts and endowment funds for which institutional funds are requested. The approving authority for the institutional fund budget request shall be the board of trustees of the institution.
- (4) Plant Fund Budget. – The budget request shall contain the items of capital outlay, as provided in G.S. 115D-31 and 115D-32, for which funds are requested, from whatever source. The board of trustees shall submit the budget to the local tax-levying authority. The local tax-levying authority shall approve or disapprove, in whole or in part, that portion of the budget requesting local public funds. After approval by the local tax-levying authority, the board of trustees shall submit the budget to the State Board of Community Colleges on a date designated by the State Board. The State Board may approve or disapprove, in whole or in part, that portion of the budget requesting State or federal funds. Plant funds provided for construction and major renovations shall be permanent appropriations until the conclusion of the project for which appropriated.

(c) No public funds shall be provided an institution, either by the tax-levying authority or by the State Board of Community Colleges, except in accordance with the budget provisions of this Article.

(d) The preparation of a budget for and the payment of interest and principal on indebtedness incurred on behalf of an institution shall be the responsibility of the county finance officer or county finance officers of the administrative areas, and the board of trustees of the institution shall have no duty or responsibility in this connection.

(e) "Trust and Agency Fund" means funds held by an institution as custodian or fiscal agent for others such as student organizations, individual students, or faculty members. Trust and agency funds need not be budgeted. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 157, s. 1; 2001-112, s. 1; 2007-484, s. 29(c).)

#### **§ 115D-55. Budget management.**

(a) Approval of Budget by Local Tax-Levying Authority. – By a date fixed by the local tax-levying authority, the budget shall be submitted to the local tax-levying authority for approval of that portion within its authority as stated in G.S. 115D-54(b). On or before July 1, or such later date as may be agreeable to the board of trustees, but in no instance later than September 1, the



local tax-levying authority shall determine the amount of county revenue to be appropriated to an institution for the budget year. The local tax-levying authority may allocate part or all of an appropriation by purpose, function, or project as defined in the budget manual as adopted by the State Board of Community Colleges.

The local tax-levying authority shall have full authority to call for all books, records, audit reports, and other information bearing on the financial operation of the institution except records dealing with specific persons for which the persons' rights of privacy are protected by either federal or State law.

Nothing in this Article shall be construed to place a duty on the local tax-levying authority to fund a deficit incurred by an institution through failure of the institution to comply with the provisions of this Article or rules and regulations issued pursuant hereto.

(b) Approval of Budget by State Board of Community Colleges. – After notification by the local tax-levying authority of the amount appropriated, the budget shall be submitted to the State Board of Community Colleges on a date designated by the State Board of Community Colleges for approval of that portion within its authority as stated in G.S. 115D-54(b). The State Board of Community Colleges shall approve the budget for each institution in such amount as the State Board decides is available and necessary for the operation of the institution.

The State Board of Community Colleges shall have authority to call for all books, records, audit reports and other information bearing on the financial operation of the institution except records dealing with specific persons for which the persons' rights of privacy are protected by either federal or State law.

Nothing in this Article shall be construed to place a duty on the State Board of Community Colleges to fund a deficit incurred by an institution through failure of the institution to comply with the provisions of this Article or rules and regulations issued pursuant hereto. (1981, c. 157, s. 1; 2001-112, s. 2; 2007-484, s. 29(d).)

#### **§ 115D-56. Final adoption of budget.**

Upon notification of approval by the State Board of Community Colleges, the board of trustees shall adopt a budget resolution as defined in the budget manual as adopted by the State Board of Community Colleges, which shall comply with the resolution of the State Board and the appropriations of the tax-levying authorities and all other funding agencies. (1981, c. 157, s. 1.)

#### **§ 115D-57. Interim budget.**

In case the adoption of the budget resolution is delayed until after July 1, the board of trustees shall authorize the president, through interim provisions, to pay salaries and the other ordinary expenses of the institution for the interval between the beginning of the fiscal year and the adoption of the budget resolution. Interim provisions so made shall be charged to the proper allocations in the budget resolution. (1981, c. 157, s. 1.)

#### **§ 115D-58. Amendments to the budget; budget transfers.**

(a) The State Board of Community Colleges shall adopt rules and regulations governing the amendment of the budget for an institution. The board of trustees may amend the budget at any time after its adoption pursuant to the rules and regulations of the State Board.

(b) If the local tax-levying authority allocates part or all of an appropriation pursuant to G.S. 115D-55, the board of trustees must obtain approval of the local tax-levying authority for an amendment to the budget which increases or decreases the amount of that appropriation allocated

to a purpose, function, or project by twenty-five percent (25%) or more from the amount contained in the budget ordinance adopted by the local tax-levying authority or such lesser percentage as specified by the local tax-levying authority in the original budget ordinance, so long as such percentage is not less than ten percent (10%).

(c) The board of trustees may, by appropriate resolution, authorize the president to transfer moneys from one appropriation to another within the same fund, subject to any limitations established by regulations adopted pursuant to this section, and subject to any limitations and procedures prescribed by the board of trustees or State for federal laws or regulations. Any such transfer shall be reported to the board of trustees at its next regular meeting and entered into its minutes. (1981, c. 157, s. 1.)

#### **§ 115D-58.1. Federal contracts and grants.**

The board of trustees of any institution may apply for and accept grants from the federal government or any agency thereof, in order to carry out the institution's mission. In exercising this authority, the board of trustees may enter into and carry out contracts with the federal government or any agency thereof, may agree to and comply with any lawful and reasonable condition attached to such a grant including, in the case of a grant from the Economic Development Administration, the granting of a security interest to the Economic Development Administration in any real property or equipment purchased with the grant, limiting the sale or use of the real property or equipment as prescribed by regulations of the Economic Development Administration, and may make expenditures from any funds so granted. The State Board of Community Colleges shall adopt rules and regulations governing the application for and the acceptance of grants under this section. (1981, c. 157, s. 1; 2001-211, s. 1.)

#### **§ 115D-58.2. Allocation of revenue to the institution by the local tax-levying authority.**

(a) The local tax-levying authority of each institution shall provide, as needed, funds to meet the monthly expenditures, including salaries and other necessary operating expenses, as set forth in a statement prepared by the board of trustees and in accordance with the approved budget. Upon the basis of the approved budget, the county finance officer shall make available to the institution the moneys requested by the board of trustees no later than the fifteenth day of the month for which funds are requested.

(b) Funds received by the trustees of an institution from insurance payments for loss or damage to buildings shall be used for the repair or replacement of such buildings, or, if the buildings are not repaired or replaced, to reduce proportionally the institutional indebtedness borne by the counties of the administrative area of the institution receiving the insurance payments. If such payments, which are not used to repair or replace institutional buildings, exceed the total institutional indebtedness borne by all counties of the administrative area, such excess funds shall remain to the credit of the institution and shall be applied to the next succeeding plant fund budget until the excess funds shall be expended. Funds received by the trustees of an institution for loss or damage to the contents of buildings shall be divided between the board of trustees and the State Board of Community Colleges in proportion to the value of the lost contents owned by the board of trustees and the State, respectively. Until these funds shall have been expended, they shall either be used for repair or replacement of lost contents or be credited to the institution for succeeding plant and current expense budgets as appropriate. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 157, s. 1.)

**§ 115D-58.3. Provision for disbursement of State money.**

The deposit of money in the State treasury to the credit of the institution shall be made in monthly installments, and additionally as necessary, at such time and in such manner as may be convenient for the operation of the community college system. Before an installment is credited, the institution shall certify to the Community Colleges System Office, the expenditures to be made by the institution from the State Current Fund during the month.

The Community Colleges System Office shall determine whether the moneys requisitioned are due the institution, and upon determining the amount due, shall cause the requisite amount to be credited to the institution. Upon receiving notice from the Community Colleges System Office that the amount has been placed to the credit of the institution, the institution may issue State warrants up to the amount so certified. Money in the State Current Fund and other moneys made available by the State Board of Community Colleges shall be released only on warrants drawn on the State Treasurer, signed by two officials of the institution designated for this purpose by the board of trustees. (1963, c. 448, s. 23; 1965, c. 448, s. 2; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 157, s. 1; 1999-84, s. 13.)

**§ 115D-58.4. Provisions for disbursement of local money.**

All local public funds received by or credited to an institution shall be disbursed on checks signed by the two officials of the institution who shall have been designated by the board of trustees. The officials so designated shall countersign a check only if the funds required by such check are within the amount of funds remaining to the credit of the institution and are within the unencumbered balance of the appropriation for the item of expenditure according to the approved budgets of the institution. Each check shall be accompanied by an invoice, statement, voucher, or other basic document which indicates, to the satisfaction of the signing officials, that the issuance of such check is proper. (1963, c. 448, s. 23; 1965, c. 488, s. 2; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 157, s. 1.)

**§ 115D-58.5. Accounting system.**

(a) Each institution shall establish and maintain an accounting system consistent with procedures as prescribed by the Community Colleges System Office and the State Controller, which shows its assets, liabilities, equities, revenues, and expenditures.

(b) Each institution shall be governed in its purchasing of all supplies, equipment, and materials by contracts made by or with the approval of the Purchase and Contract Division of the Department of Administration except as provided in G.S. 115D-58.14. No contract shall be made by any board of trustees for purchases unless provision has been made in the budget of the institution to provide payment thereof. In order to protect the State purchase contracts, it is the duty of the board of trustees and administrative officers of each institution to pay for such purchases promptly in accordance with the contract of purchase. Equipment shall be titled to the State Board of Community Colleges if derived from State or federal funds.

(c) The operations of each institution shall be subject to oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.

(d) Repealed by Session Laws 1983, c. 913, s. 18. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 157, s. 1; 1983, c. 913, s. 18; 1998-68, s. 1; 1999-84, s. 14; 2000-67, s. 7(c).)

**§ 115D-58.6. Investment of idle cash.**

(a) Definitions. – As used in this section, the following definitions apply:

(1) Cash balance. – The amount equal to all moneys received into institutional fund accounts minus all expenses and withdrawals from those accounts in an official depository of the institution as designated by the local board of trustees consistent with G.S. 115D-58.7.

(2) Official depository. – One or more banks, savings and loan associations, or trust companies in North Carolina that a community college board of trustees has designated consistent with G.S. 115D-58.7.

(a1) Deposits. – The institution may deposit at interest all or part of the cash balance of any fund in an official depository of the institution. Moneys may be deposited at interest in any official depository of the institution in the form of such deposit accounts as may be approved for county governments. In addition, moneys may be deposited in the form of such deposit accounts as provided for a local government or public authority in G.S. 159-30(b1). Investment deposits shall be secured as provided in G.S. 159-31(b).

(b) through (d) Repealed by Session Laws 2011-145, s. 8.20(a), effective July 1, 2011.

(d1) Investments. – The institution may invest all or part of the cash balance of any fund in an official depository of the institution. The institution shall manage investments subject to whatever restrictions and directions the board of trustees may impose. The institution shall have the power to purchase, sell, and exchange securities on behalf of the board of trustees. The investment program shall be so managed that investments and deposits can be converted into cash when needed.

(1) Moneys shall be invested only in the form of investments pursuant to G.S. 159-30(c) to county governments or in any form of investment established or managed by an investment advisor who is registered and in good standing with either the Securities and Exchange Commission or the North Carolina Secretary of State, Securities Division, and is a member of the Securities Investor Protection Corporation. Money in endowment funds may be invested pursuant to G.S. 147-69.2. Provided, however, the institution may elect to deposit at interest any local funds with the State Treasurer for investment as special trust funds pursuant to the provisions of G.S. 147-69.3, and the interest thereon shall accrue to the institution as local funds.

(2) The investment securities listed in G.S. 159-30(c) may be bought, sold, and traded by private negotiation, and the institutions may pay all incidental costs thereof and all reasonable costs of administering the investment and deposit program from local funds. The institution shall be responsible for their safekeeping and for keeping accurate investment accounts and records.

(e) Interest earned on deposits and investments shall be credited to the fund whose cash is deposited or invested. Cash of several funds may be combined for deposit or investment if not otherwise prohibited by law; and when such joint deposits or investments are made, interest earned shall be prorated and credited to the various funds on the basis of the amounts thereof invested, figured according to an average periodic balance or some other sound accounting principle.

Interest earned on the deposit or investment of bond funds shall be deemed a part of the bond proceeds.

(f) Registered securities acquired for investment may be released from registration and transferred by signature of the official designated by the board of trustees.

(g) The board of trustees shall appoint an Investment Committee which shall consist of a minimum of three people who have sufficient financial background to review and evaluate investment options. These individuals should have experience in institutional or retail investment management with knowledge of fixed income and public equities. This committee shall make recommendations to the Board on those investment options, as well as monitor the performance of investments once made.

(h) The board of trustees shall discharge their duties with respect to the management and investment of college funds as follows:

- (1) Investment decisions shall be solely in the interest of the college and the students, faculty, and staff of the college.
- (2) The investments shall be for the exclusive purpose of providing an adequate return to the college.
- (3) Investments shall be made with the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose.
- (4) Investment decisions shall be made impartially, taking into account the best interest of the college, with special attention to conflicts of interest or potential conflicts of interest.
- (5) Investments shall incur only costs that are appropriate and reasonable. (1981, c. 157, s. 1; c. 612, s. 1; 2005-394, s. 3; 2011-145, s. 8.20(a); 2013-305, s. 2.)

#### **§ 115D-58.7. Selection of depository; deposits to be secured.**

(a) Each board of trustees shall designate as the official depositories of the institution one or more banks, savings and loan associations or trust companies in this State. It shall be unlawful for any money belonging to an institution, other than moneys required to be deposited with the State Treasurer, to be deposited in any place, bank, savings and loan associations, or trust company other than an official depository except as permitted in G.S. 115D-58.6(a1). However, public moneys may be deposited in official depositories in Negotiable Order of Withdrawal (NOW) accounts where permitted by applicable federal or State regulations.

(b) Money deposited in an official depository or deposited at interest pursuant to G.S. 115D-58.6(a1) shall be secured in the manner prescribed in G.S. 159-31(b). When deposits are secured in accordance with this subsection, no public officer or employee may be held liable for any losses sustained by an institution because of the default or insolvency of the depository. (1981, c. 157, s. 1; c. 612, s. 1; 2011-145, s. 8.20(b).)

#### **§ 115D-58.8. Facsimile signatures.**

The board of trustees may provide by appropriate resolution for the use of facsimile signature machines, signature stamps, or similar devices in signing checks and drafts. The board shall charge some bonded officer or employee with the custody of the necessary machines, stamps, plates, or

other devices, and that person and the sureties on his official bond are liable for any illegal, improper, or unauthorized use of them. Rules and regulations governing the use and control of the facsimile signature shall be adopted by the State Board of Community Colleges. (1981, c. 157, s. 1.)

**§ 115D-58.9. Daily deposits.**

All moneys regardless of source or purpose collected or received by an officer, employee, or agent of an institution shall be deposited intact in accordance with this section. Each officer, employee and agent of an institution whose duty it is to collect or receive any moneys shall deposit his collections and receipts daily. If the board of trustees gives its approval, deposits may be required only when the moneys on hand amount to as much as two hundred fifty dollars (\$250.00), but in any event, a deposit shall be made on the last business day of the month. All deposits shall be made in an official depository. Tuition and all revenues declared by law to be State moneys or otherwise required to be deposited with the State Treasurer shall be deposited pursuant to the rules of the State Treasurer pursuant to G.S. 147-77. (1981, c. 157, s. 1.)

**§ 115D-58.10. Surety bonds and related insurance.**

The State Board of Community Colleges shall determine what State employees and employees of institutions shall give bonds or be insured for the protection of State funds and property and the State Board is authorized to place the bonds, determine adequate insurance coverage, and pay the premiums thereon from State funds.

The board of trustees of each institution shall require all institutional employees authorized to draw or approve checks or vouchers drawn on local funds, and all persons authorized or permitted to receive institutional funds from whatever source, and all persons responsible for or authorized to handle institutional property, to be bonded by a surety company authorized to do business with the State in such amount as the board of trustees deems sufficient for the protection of such property and funds. In lieu of a bond, the board of trustees may obtain and maintain adequate insurance coverage sufficient for the protection of institutional funds and property. The tax-levying authority of each institution shall provide the funds necessary for the payment of the premiums of the bonds or for insurance coverage. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 157, s. 1; 2019-139, s. 1.1.)

**§ 115D-58.11. (Effective until July 1, 2020) Fire and casualty insurance on institutional buildings and contents.**

(a) The board of trustees of each institution, in order to safeguard the investment in institutional buildings and their contents, shall:

- (1) Insure and keep insured each building owned by the institution to the extent of the current insurable value, as determined by the insured and insurer, against loss by fire, lightning, and the other perils embraced in extended coverage.
- (2) Insure and keep insured equipment and other contents of all institutional buildings that are the property of the institution or the State or which are used in the operation of the institution.

(b) The tax-levying authority of each institution shall provide the funds necessary for the purchase of the insurance required in G.S. 115D-58.11(a).

(c) Boards of trustees may purchase insurance from companies duly licensed and authorized to sell insurance in this State or may obtain insurance in accordance with the provisions of Article

16, Chapter 115, of the General Statutes, "State Insurance of Public School Property." (1963, c. 448, s. 23; 1979, c. 462, s. 2; 1981, c. 157, s. 1.)

**§ 115D-58.11. (Effective July 1, 2020) Fire and casualty insurance on institutional buildings and contents.**

(a) The board of trustees of each institution, in order to safeguard the investment in institutional buildings and their contents, shall:

- (1) Insure and keep insured each building owned by the institution to the extent of not less than eighty percent (80%) of the current insurable value, as determined by the insured and insurer, against loss by the perils embraced in broad form coverage to include fire, lightning, windstorm, hail, explosion, aircraft or vehicles, riot or civil commotion, smoke, vandalism, sprinkler leakage, sinkhole collapse, volcanic action, falling objects, weight of snow, ice or sleet, or water damage to institutional buildings and properties.
- (2) Insure and keep insured equipment and other contents of all institutional buildings that are the property of the institution or the State or which are used in the operation of the institution.

(b) The tax-levying authority of each institution shall provide the funds necessary for the purchase of the insurance required in subsection (a) of this section.

(c) Boards of trustees may purchase insurance from companies duly licensed and authorized to sell insurance in this State or may obtain insurance in accordance with the provisions of Article 31A of Chapter 58 of the General Statutes, "State Insurance of Public Education Property."

(d) If the Commissioner of Insurance determines that any person has willfully failed to comply with the provisions of subsections (a) and (b) of this section, the Commissioner of Insurance may order, for each separate violation, a civil penalty under the procedures in G.S. 58-2-70(d). Every 24 hours without such insurance constitutes a separate offense violation. (1963, c. 448, s. 23; 1979, c. 462, s. 2; 1981, c. 157, s. 1; 2019-176, s. 2(a).)

**§ 115D-58.11A. (Effective July 1, 2020) Flood insurance.**

(a) The board of trustees of each institution, in order to safeguard the investment in institutional buildings and their contents, shall insure and keep insured to the extent of not less than eighty percent (80%) of the current insurable value, as determined by the insurer and the insured, of each of its insurable buildings against flood when that property is located, or becomes located in, an area identified on the latest Flood Insurance Rate Map produced by the Federal Emergency Management Agency as area that will be inundated by the flood event having a one percent (1%) chance of being equaled or exceeded in any given year.

(b) The tax-levying authority for each institution shall appropriate funds necessary for compliance with the provisions of subsection (a) of this section.

(c) The board of trustees may purchase insurance from companies duly licensed and authorized to sell insurance in this State or may obtain insurance in accordance with the provisions of Article 31A of Chapter 58 of the General Statutes, "State Insurance of Public Education Property."

(d) If the Commissioner of Insurance determines that any person has willfully failed to comply with the provisions of subsections (a) and (b) of this section, the Commissioner of

Insurance may order, for each separate violation, a civil penalty under the procedures in G.S. 58-2-70(d). Every 24 hours without such insurance constitutes a separate violation. (2019-176, s. 2(b).)

**§ 115D-58.12. Liability insurance; tort actions against boards of trustees.**

(a) Boards of trustees may purchase liability insurance only from companies duly licensed and authorized to sell insurance in this State or from other qualified companies as determined by the Department of Insurance. Each contract of insurance must, by its terms, adequately insure the board of trustees against any and all liability for any damages by reason of death or injury to person or property proximately caused by the negligence or torts of the agents and employees of such board of trustees or institution when acting within the scope of their authority or the course of their employment. Any company which enters into such a contract of insurance with a board of trustees by such act waives any defense based upon the governmental immunity of such board.

(b) Any person sustaining damages, or in case of death, his personal representative, may sue a board of trustees insured under this section for the recovery of such damages in any court of competent jurisdiction in this State, but only in a county of the administrative area of the institution against which the suit is brought; and it shall be no defense to any such action that the negligence or tort complained of was in pursuance of a governmental, municipal, or discretionary function of such board of trustees, to the extent that such board is insured as provided by this section.

(c) Nothing in this section shall be construed to deprive any board of trustees of any defense whatsoever to any action for damages, or to restrict, limit, or otherwise affect any such defense; and nothing in this section shall be construed to relieve any person sustaining damages or any personal representative of any decedent from any duty to give notice of such claim to the board of trustees or commence any civil action for the recovery of damages within the applicable period of time prescribed or limited by law.

(d) No part of the pleadings which relate to or allege facts as to a defendant's insurance against liability shall be read or mentioned in the presence of the trial jury in any action brought pursuant to this section. Liability shall not attach unless the plaintiff shall waive the right to have all issues of law and fact relating to insurance in such action determined by a jury, and such issues shall be heard and determined by the judge without resort to a jury, and the jury shall be absent during any motions, arguments, testimony, or announcements of findings of fact or conclusions of law with respect thereto, unless the defendant shall request jury trial thereon.

(e) The board of trustees of all institutions in this Chapter is authorized to pay as a necessary expense the lawful premiums of liability insurance provided in this section. (1963, c. 448, s. 23; 1979, c. 462, s. 2; 1981, c. 157, s. 1; 1985, c. 489.)

**§ 115D-58.13. Vending facilities.**

Moneys received by an institution on account of operation of vending facilities shall be deposited, budgeted, appropriated, and expended in accordance with the provisions of this Article. (1983 (Reg. Sess., 1984), c. 1034, s. 170.)

**§ 115D-58.14. Purchasing flexibility.**

(a) Community colleges may purchase supplies, equipment, and materials from noncertified sources that are available under State term contracts, subject to the following conditions:



- (1) The purchase price, including the cost of delivery, is less than the cost under the State term contract;
- (2) The cost of the purchase shall not exceed the bid value benchmark established under G.S. 143-53.1; and
- (3) The items are the same or substantially similar in quality, service, and performance as items available under State term contracts.

(a1) Notwithstanding the provisions of this section, a community college may purchase, in any lawful manner, an item that is neither available under State term contracts nor substantially similar to an item available under State term contracts.

(b) The State Board of Community Colleges and the Department of Administration shall jointly adopt policies and procedures for monitoring the implementation of this section, including without limitation (i) definitions of substantial similarity, (ii) the content and frequency of reports and audits of such purchases, and (iii) a process for identifying any term contract existing as of October 1, 2009, with respect to which the exercise of purchasing flexibility could constitute a breach of that contract.

In the formation of each new term contract entered into after October 1, 2009, the Department of Administration shall, in its discretion, either provide in the contract for the purchasing flexibility set out in this section or make the term contract inapplicable to community colleges.

(c) The State Board of Community Colleges, in consultation with the Department of Administration, shall review the purchasing process for community colleges and may increase or decrease the purchasing/delegation benchmark for each community college based on the college's overall capabilities, including staff resources, purchasing compliance reviews, and audit reports. The State Board may, in its discretion, reduce a community college's purchasing/delegation benchmark at anytime. The State Board shall not increase a community college's purchasing/delegation benchmark by more than fifteen percent (15%) in any calendar year without the concurrence of the Department of Administration within 60 days of submission. The maximum purchasing/delegation benchmark for a community college shall be one hundred thousand dollars (\$100,000). (1998-68, s. 2; 2005-103, s. 5; 2009-132, s. 1.)

#### **§ 115D-58.15. Lease purchase and installment purchase contracts for equipment and real property.**

(a) Authority. – Notwithstanding any other provision of law to the contrary, the board of trustees of a community college may use lease purchase or installment purchase contracts to purchase or finance the purchase of equipment or real property as provided in this section. A college shall not have more than five State-funded contracts in effect at any one time.

(b) Contract Approval. – Contracts for more than one hundred thousand dollars (\$100,000) or for a term of more than three years shall be subject to review and approval as provided in this subsection. If the source of funds for payment of the obligation by the community college is intended to be local funds, the contract must be approved by resolution of the tax-levying authority, and the authority must acknowledge in writing its understanding that the community college may require appropriations from the tax-levying authority in order to meet the college's obligations under the contract. The tax-levying authority may in each fiscal year appropriate sufficient funds to meet the amounts to be paid during the fiscal year under the contract. The source of funds for lease purchase or installment purchase contracts for real property shall be local funds. If the source of funds for payment of the obligation by the community college is intended to be State funds, the contract must be approved by resolution of the State Board of Community Colleges. The State

Board may in each fiscal year allocate sufficient funds to meet the amounts to be paid during the fiscal year under the contract.

(c) Local Government Commission. – A contract that is subject to approval by the tax-levying authority also shall be subject to approval by the Local Government Commission as provided in Article 8 of Chapter 159 of the General Statutes if the contract:

- (1) Extends for five or more years from the date of the contract;
- (2) Obligates the board of trustees to pay sums of money to another, regardless of whether the payee is a party to the contract; and
- (3) Obligates the board of trustees to pay five hundred thousand dollars (\$500,000) or more over the full term of the contract.

(d) Application of Section. – When determining whether a contract is subject to approval under this section the total cost of exercising an option to upgrade property shall be taken into consideration. The term of a contract shall include periods that may be added to the original term through the exercise of an option to renew or extend.

(e) Nonsubstitution Clause. – No contract entered into under this section may contain a nonsubstitution clause that restricts the right of a board of trustees to:

- (1) Continue to provide a service or activity; or
- (2) Replace or provide a substitute for any property financed or purchased by the contract.

(f) Nonappropriations Clause. – No deficiency judgment may be rendered against any board of trustees, any tax-levying authority, the State Board of Community Colleges, or the State of North Carolina in any action for breach of a contractual obligation authorized by this section. The taxing power of a tax-levying authority and the State is not and may not be pledged directly or indirectly to secure any moneys due under a contract authorized by this section. (1998-111, s. 2; 2007-484, s. 29(e); 2013-310, s. 1.)

#### **§ 115D-58.16. Audits.**

(a) Each community college shall be subject to a financial audit a minimum of once every two years. Community colleges may use State funds to contract with the State Auditor or with a certified public accountant to perform the audits. The colleges shall submit the results of the audits to the State Board of Community Colleges. The State Board of Community Colleges may require a community college to be audited annually after the community college has two consecutive financial audits with findings.

The State Board of Community Colleges shall ensure that all colleges are audited in accordance with this section.

(b) Notwithstanding the provisions of Chapter 143D of the General Statutes, a community college shall not be subject to the EAGLE program administered by the Office of the State Controller unless (i) there is a finding of internal control problems in the most recent financial audit of the college or (ii) the State Board of Community Colleges determines that a college should be subject to the program. (2011-145, s. 8.15; 2013-360, s. 10.15(b); 2018-92, s. 1(c).)

### Article 5.

#### Special Provisions.

#### **§ 115D-59. Multiple-county administrative areas.**

Should two or more counties determine to form an administrative area for the purpose of establishing and supporting an institution, the boards of commissioners of all such counties shall jointly propose a contract to be submitted to the State Board of Community Colleges as part of the request for establishment of an institution. The contract shall provide, in terms consistent with this Chapter, for financial support of the institution, selection of trustees, termination of the contract and the administrative area, and any other necessary provisions. The State Board of Community Colleges shall have authority to approve the terms of the contract as a prerequisite for granting approval of the establishment of the institution and the administrative area. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1.)

**§ 115D-60. Special provisions for Central Piedmont Community College.**

(a) The board of commissioners of Mecklenburg County is authorized to provide the local financial support for the Central Piedmont Community College as provided in G.S. 115D-32 by levying a special tax to a maximum annual rate equal to the maximum rate last approved by the voters of the county for the support of the Central Piedmont Community College as operated pursuant to Article 3, Chapter 116, of the General Statutes of North Carolina, or by appropriations from nontax revenues, or by both. The question of increasing the maximum annual rate may be submitted at an election held in accordance with the provisions of G.S. 115D-33(d) and the appropriate provisions of G.S. 115D-35.

(b) When, in the opinion of the board of trustees of said institution, the use of any building, building site, or other real property owned or held by said board is unnecessary or undesirable for the purposes of said institution the board of trustees may sell, exchange, or lease such property in the same manner as is provided by law for the sale, exchange, or lease of school property by county or city boards of education. The proceeds of any such sale or lease shall be used for capital outlay purposes. (1963, c. 448, s. 23; 1965, c. 402; 1979, c. 462, s. 2.)

**§ 115D-61. Special provisions for Coastal Carolina Community College.**

All local taxes heretofore authorized by the voters of Onslow County to be levied annually for the local financial support of the Onslow County Industrial Education Center may continue to be levied by the board of commissioners of Onslow County for the purpose of providing local financial support of the institution under its present name. (1967, c. 279; 1979, c. 462, s. 2.)

**§ 115D-62. Trustee Association Regions.**

The State is divided into six Trustee Association Regions as follows:

Region 1: The counties of Buncombe, Cherokee, Clay, Cleveland, Gaston, Graham, Haywood, Henderson, Jackson, Lincoln, Macon, Madison, McDowell, Polk, Rutherford, Swain, and Transylvania.

Region 2: The counties of Alexander, Alleghany, Ashe, Avery, Burke, Cabarrus, Caldwell, Catawba, Iredell, Mitchell, Rowan, Surry, Watauga, Wilkes, Yadkin, and Yancey.

Region 3: The counties of Alamance, Davidson, Caswell, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Orange, Person, Randolph, Rockingham, Stokes, Vance, Warren, and Wake.

Region 4: The counties of Anson, Chatham, Cumberland, Harnett, Hoke, Johnston, Lee, Mecklenburg, Montgomery, Moore, Richmond, Robeson, Scotland, Stanly, and Union.

Region 5: The counties of Bladen, Brunswick, Carteret, Craven, Columbus, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Sampson, and Wayne.

Region 6: The counties of Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pasquotank, Perquimans, Pitt, Tyrrell, Washington, and Wilson. (1979, c. 896, s. 9; 1993, c. 69, s. 1.)

**§§ 115D-63 through 115D-67. Reserved for future codification purposes.**

Article 5A.

North Carolina Center for Applied Textile Technology at Gaston College.

**§ 115D-67.1. Purpose of the Center.**

The purpose of the North Carolina Center for Applied Textile Technology is to develop a world-class workforce for the textile industry in North Carolina; support the textile industry by identifying problems confronting the industry and assisting the industry in solving them; garner support from the textile industry for the work of the Center; and serve as a statewide center of excellence that serves all components of the textile industry. (2005-103, s. 3.)

**§ 115D-67.2. Advisory Board.**

(a) The Advisory Board to the North Carolina Center for Applied Textile Technology is hereby established. The purpose of the Advisory Board is to assist in the advancement and administration of the Applied Textile Technology Center.

(b) The Advisory Board shall consist of 14 members as follows:

- (1) The President of Gaston College, who shall serve ex officio.
- (2) Two members who are residents of North Carolina appointed by the National Council of Textile Organizations.
- (2a) Two members appointed by the Southern Textile Association, Inc.
- (3) Two members appointed by the board of the North Carolina Center for Applied Textile Technology Foundation.
- (4) Two members appointed by the board of trustees of Gaston College.
- (5) Three members appointed by the State Board of Community Colleges.
- (6) One member appointed by the dean of the College of Textiles at North Carolina State University.
- (7) The Director of the Manufacturing Solutions Center at Catawba Valley Community College who shall serve ex officio as a nonvoting member.

The appointing entities shall attempt to appoint members who are distributed geographically throughout the State; members representing large and small companies; and members from each segment of the diverse textile industry including spun yarn manufacturing, filament yarn manufacturing, knitting, weaving, dyeing and finishing, apparel, nonwoven, technical/medical textiles, and fiber producers.

(c) In order for the terms of members to be staggered, one initial member appointed by the North Carolina Manufacturers Association, Inc., one member appointed by the North Carolina Center for Applied Textile Technology Foundation, one member appointed by the board of trustees of Gaston College, and two members appointed by the State Board of Community Colleges shall serve for two-year terms. The remainder of the initial appointees shall serve for four-year terms. Subsequent terms shall be for four years. Initial terms shall begin July 1, 2005.

Members may serve for no more than two consecutive four-year terms. Members appointed to an initial term of two years and members appointed to fill a vacancy may serve two consecutive four-year terms after the expiration of their term of less than four years.

All vacancies occurring on the board shall be filled for the remainder of the unexpired term by the appointing authority making the original appointment.

Members shall receive per diem, travel, and subsistence allowances in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(d) The Advisory Board is a public body as defined in G.S. 143-318.10(b) and is subject to all provisions of G.S. 143-318.9 through G.S. 143-318.18. (2005-103, s. 3; 2010-31, s. 8.8(a); 2013-410, s. 36(a).)

### **§ 115D-67.3. Director and other Center personnel.**

The President of Gaston College shall appoint an individual to serve as the director of the Center from a list of two or more candidates recommended by the Advisory Board. If the President rejects the recommended candidates, the Advisory Board shall submit two or more additional candidates. The director, after consultation with the Advisory Board and subject to the approval of the President of Gaston College, shall select other staff members of the Center. The director and other staff members of the Center are employees of Gaston College and are subject to the personnel policies of Gaston College. (2005-103, s. 3.)

### **§ 115D-67.4. Fees collected by the Center; purchases using Center funds.**

Notwithstanding any other provision of law, all fees collected by the Applied Textile Technology Center for services to the textile industry, except for regular curriculum and continuing education tuition receipts, shall be retained by the Center and used for the operations of the Center. Purchases made by the Center using these funds are not subject to the provisions of Article 3 of Chapter 143 of the General Statutes. However, the Center shall: (i) submit all proposed agreements or contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this section to the Secretary of Administration or the Secretary's designee for review as provided in G.S. 114-8.3; and (ii) include in all agreements or contracts to be awarded by the Center under this section a standard clause which provides that the State Auditor and internal auditors of the Center may audit the records of the contractor during and after the term of the contract to verify accounts and data affecting fees and performance. The Center shall not award a cost plus percentage of cost agreement or contract for any purpose. (2005-103, s. 3; 2010-194, s. 17; 2011-326, s. 15(q); 2017-102, s. 42.)

## Article 5B.

### Manufacturing Solutions Center at Catawba Valley Community College.

#### **§ 115D-67.10. Purpose of the Center.**

The purpose of the Manufacturing Solutions Center at Catawba Valley Community College is to create and maintain jobs in North Carolina through support of traditional and emerging industries. The Center's services include training, testing, market development, entrepreneur support, product sourcing, prototyping, applied research, and managing a manufacturing business incubator. (2017-57, s. 9.9.)

#### **§ 115D-67.11. Director and other Center personnel.**

The president of the Catawba Valley Community College shall appoint an individual to serve as the executive director of the Manufacturing Solutions Center. The executive director shall select other personnel of the Center, subject to the approval by the president of the Catawba Valley Community College. The executive director and other personnel of the Center are employees of Catawba Valley Community College and are subject to the personnel policies of the community college. (2017-57, s. 9.9.)

**§ 115D-67.12. Fees collected by the Center; use of Center funds.**

Notwithstanding any other provision of law, all fees collected by the Manufacturing Solutions Center for services to industry, except for regular curriculum and continuing education tuition receipts, shall be retained by the Center and used for the operations of the Center. Purchases made by the Center using these funds are not subject to the provisions of Article 3 of Chapter 143 of the General Statutes. However, the Center shall (i) notify the Secretary of the Department of Administration or the Secretary's designee of the intent to enter into a contract for supplies, materials, printing, equipment, and contractual services that exceeds one million dollars (\$1,000,000) as provided in G.S. 114-8.3 and (ii) include in all agreements or contracts to be awarded by the Center under this section a standard clause which provides that the State Auditor and internal auditors of the Center may audit the records of the contractor during and after the term of the contract to verify accounts and data affecting fees and performance. The Center shall not award a cost plus percentage of cost agreement or contract for any purpose. (2017-57, s. 9.9.)

Article 6.

Textile Training School.

**§§ 115D-68 through 115D-71:** Repealed by Session Laws 2005-103, s. 2, effective July 1, 2005.

Article 6A.

Motorcycle Safety Instruction.

**§ 115D-72. Motorcycle Safety Instruction Program.**

(a) There is created a Motorcycle Safety Instruction Program for the purpose of establishing statewide motorcycle safety instruction to be delivered through the Community Colleges System Office. The Program may be administered by a motorcycle safety coordinator who shall be responsible for the planning, curriculum, and completion requirements of the Program. The State Board of Community Colleges may elect a motorcycle safety coordinator upon nomination of the President of the Community College System, and the compensation of the motorcycle safety coordinator shall be fixed by the State Board upon recommendation of the President of the Community College System pursuant to G.S. 115D-3. The State Board of Community Colleges may contract with an appropriate public or private agency or person to carry out the duties of the motorcycle safety coordinator.

(b) The Motorcycle Safety Instruction Program shall be implemented through the Community Colleges System Office at institutions which choose to provide the Program. The motorcycle safety coordinator shall select and facilitate the training and certification of instructors who will implement the Program. (1989, c. 755, s. 1; 1993, c. 320, s. 5; 1999-84, s. 15.)

**§§ 115D-73 through 115D-76. Reserved for future codification purposes.**

Article 7.

Miscellaneous Provisions.

**§ 115D-77. Nondiscrimination policy.**

It is the policy of the State Board of Community Colleges and of local boards of trustees of the State of North Carolina not to discriminate among students on the basis of race, gender, national origin, religion, age, or disability.

The State Board and each board of trustees shall give equal opportunity for employment and compensation of personnel at community colleges, without regard to race, religion, color, creed, national origin, sex, age, or disability, except where specific age, sex or physical or mental requirements constitute bona fide occupational qualifications. (1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1991, c. 84, s. 4; 1999-84, s. 6.)

**§ 115D-78. Access to information and public records; small business counseling information.**

(a) In accordance with Chapter 132 of the General Statutes, all rules, regulations and public records of the State Board of Community Colleges, the Community Colleges System Office, and local boards of trustees shall be available for examination and reproduction on payment of fees by any person.

(b) Notwithstanding subsection (a) of this section, documents submitted to the North Carolina Community College System's Small Business Center Network by an individual seeking business counseling or technical assistance and documents created by the Network to provide the individual with counseling and technical assistance are not public records as defined by G.S. 132-1. (1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1999-84, s. 16; 2011-297, s. 1.)

**§ 115D-79. Open meetings.**

All official meetings of the State Board of Community Colleges and of local boards of trustees shall be open to the public in accordance with the provisions of G.S. 143-318.1 through 143-318.7. (1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1.)

**§ 115D-80:** Repealed by Session Laws 2011-145, s. 8.18(b1), as amended by Session Laws 2011-391, s. 19, effective July 1, 2011.

**§ 115D-81. Saving clauses.**

(a) Continuation of Existing Law. – The provisions of this Chapter, insofar as they are the same as those of existing laws, are intended as a continuation of such laws and not as new enactments. The repeal by the act enacting this Chapter of any statute or part thereof shall not revive any statute or part thereof previously repealed or suspended. The provisions of this section shall not affect title to, or ownership of, any real or personal property vested before April 26, 1979. This Chapter shall not in any way affect or repeal any local acts in conflict with the terms of this Chapter.

(b) Existing Rights and Liabilities. – The provisions of this Chapter shall not affect any act done, liability incurred or right accrued or vested, or affect any suit or prosecution pending or to be instituted to enforce any right or penalty or punish any offense under the authority of statutes repealed by the act enacting this Chapter. (1979, c. 462, s. 2.)

**§§ 115D-82 through 115D-86. Reserved for future codification purposes.**

Article 8.

Proprietary Schools.

**§ 115D-87. Definitions.**

The following definitions apply in this Article:

- (1) Person. – Any individual, association, partnership or corporation, and includes any director, receiver, referee, trustee, executor, or administrator as well as a natural person.
- (2) Proprietary school. – An educational institution having a physical presence within North Carolina that meets all of the following conditions:
  - a. It is privately owned by a sole proprietorship, partnership, limited liability company, or corporation.
  - b. It is established as a business entity or as a nonprofit charitable organization.
  - c. It offers instruction to individuals who (i) have completed their elementary and secondary education or (ii) are beyond the age of compulsory secondary school attendance and have demonstrated an ability to benefit from that instruction for the attainment of educational objectives, vocational objectives, or both.
  - d. It charges tuition or receives any consideration from a student for any portion of the instruction in any form, including written or audiovisual material.
  - e. It educates, trains, or claims or offers to educate or train students in a program leading toward (i) examinations for licensing in a profession or vocation, (ii) employment at a beginning or advanced level, or (iii) a postsecondary educational credential below the associate degree level.

The term includes a branch or extension of a private postsecondary educational institution of another state that is located in this State or that offers educational services or education at a physical location within this State. Delivery systems employed may include, but are not limited to, (i) correspondence, (ii) classrooms, (iii) hotels or other temporary dwelling units or areas, or (iv) electronic communications such as those used in distance education. Distance education is education, training courses, or programs delivered to a student who is geographically separate from the instructor. It does not include institutions licensed by G.S. 116-15.

If a school has physical locations and offers classes in more than one county, the school's operation in each county shall constitute a separate proprietary school, as defined in this section. (1955, c. 1372, art. 30, ss. 1, 2; 1957, c. 1000; 1961, c. 1175, s. 1; 1981, c. 423, s. 1; 1987, c. 442, s. 2; 1989



(Reg. Sess., 1990), c. 877, s. 1; 1993, c. 553, s. 32.2; 2011-21, s. 1; 2011-326, s. 16(a).)

**§ 115D-88. Exemptions.**

It is the purpose of this Article to include all private schools operated for profit: Provided, that the following schools shall be exempt from the provisions of this Article:

- (1) Nonprofit schools conducted by (i) charities that are exempt from taxation under section 501(c)(3) of the Internal Revenue Code where no fee or tuition is charged to the student or (ii) religious institutions.
- (2) Schools maintained or classes conducted by employers for their own employees where no fee or tuition is charged to the student.
- (3) Courses of instruction given by any fraternal society, civic club, or benevolent order, which courses are not operated for profit.
- (4) Any school for which there is another legally existing licensing or approving board or agency in this State.
- (4a) Classes or schools that are equipment-specific to purchasers, users, classes, or schools offering training or instruction to acquaint purchasers or users with equipment capabilities.
- (4b) Repealed by Session Laws 2011-21, s. 2, effective July 1, 2011.
- (4c) Classes or schools that the State Board, acting by and through the State Board of Proprietary Schools determines are avocational, recreational, self-improvement, or continuing education for already trained and occupationally qualified individuals.
- (5) Any established university, professional, or liberal arts college, public or private school regulated or recognized pursuant to Chapter 115C of the General Statutes or by any other State Agency, or any State institution which has heretofore offered, or which may hereinafter offer one or more courses covered in this Article: Provided, that the tuition fees and charges, if any, made by such university, college, high school, or State institution shall be collected by their regular officers in accordance with the rules prescribed by the board of trustees or governing body of such university, college, high school, or State institution; but provisions of the Article shall apply to all proprietary schools as defined in this Article, and operated within the State of North Carolina as such institutions, except schools for which there are other legally existing licensing boards or agencies.
- (6) Any institution that is exempt from licensure pursuant to G.S. 116-15(c). (1955, c. 1372, art. 30, ss. 1, 2; 1957, c. 1000; 1961, c. 1175, s. 2; 1981, c. 423, s. 1; 1983, c. 768, s. 10; 1987, c. 442, s. 2; 1989 (Reg. Sess., 1990), c. 877, s. 2; 2011-21, s. 2; 2011-308, s. 2.)

**§ 115D-89. State Board of Community Colleges to administer Article; issuance of diplomas by schools; investigation and inspection; rules.**

(a) The State Board of Community Colleges, acting by and through the State Board of Proprietary Schools, shall have authority to administer and enforce this Article and to grant and issue licenses to proprietary schools whose sustained curriculum is of a grade equal to that prescribed for similar public schools and educational institutions of the State and which have met the standards set forth by the Board, including but not limited to course offerings, adequate facilities, financial stability, competent personnel and legitimate operating practices.

(b) Any such proprietary school may by and with the approval of the State Board of Community Colleges issue certificates and diplomas.

(c) The State Board, acting by and through the State Board of Proprietary Schools, shall formulate the criteria and the standards evolved thereunder for the approval of such schools or educational institutions, provide for adequate investigations of all schools applying for a license and issue licenses to those applicants meeting the standards fixed by the State Board, maintain a list of schools approved under the provisions of this Article which list shall be available for the information of the public, and provide for periodic inspection of all schools licensed under the provisions of this Article. Through periodic reports required of licensed schools and by inspections made by authorized representatives, the State Board of Community Colleges, acting by and through the State Board of Proprietary Schools, shall have general supervision over proprietary schools in the State, the object of said supervision being to protect the health, safety and welfare of the public by having the proprietary schools maintain adequate, safe and sanitary school quarters, sufficient and proper facilities and equipment, sufficient and qualified teaching and administrative staff, and satisfactory programs of operation and instruction, and to have the school carry out its advertised promises and contracts made with its students and patrons. To this end, the State Board of Community Colleges, acting by and through the State Board of Proprietary Schools, is authorized to issue such rules not inconsistent with the provisions of this Article as are necessary to administer the provisions of this Article.

The State Board, acting by and through the State Board of Proprietary Schools, may request any occupational licensing or approving board or agency in this State to adopt rules requiring the approval of that board or agency for a course of study. Under these rules, the board or agency shall pass on the adequacy of equipment, curricula, and instructional personnel. The State Board of Community Colleges may deny approval to a course of study that is not approved by such board or agency. (1955, c. 1372, art. 30, s. 4; 1957, c. 1000; 1961, c. 1175, s. 3; 1981, c. 423, s. 1; 1987, c. 442, ss. 1, 2; 1989 (Reg. Sess., 1990), c. 877, s. 3; 2011-21, s. 3; 2011-308, s. 3.)

#### **§ 115D-89.1. State Board of Proprietary Schools.**

(a) The State Board of Proprietary Schools is established in the North Carolina Community Colleges System Office.

(b) The State Board of Proprietary Schools shall consist of seven members as follows:

- (1) The President of the North Carolina Community College System or the President's designee.
- (2) Two members appointed by the Governor.
- (3) Two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one of whom shall be the owner or director of a proprietary school licensed in the State with less than 100 total annual enrollment of students and one the owner or director of a proprietary school or group of proprietary

schools licensed in the State with more than 750 total annual enrollment of students.

- (4) Two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, one of whom shall be the owner or director of a proprietary school licensed in the State with between 100 and 750 total annual enrollment of students and one the owner or director of a proprietary school licensed in the State.

The appointing authorities shall appoint members who have a demonstrated history of experience in proprietary or public postsecondary education, an understanding of standards of quality in postsecondary education, and leadership beyond a particular institution.

(c) No member of the General Assembly, spouse of a member of the General Assembly, or officer or employee of the State shall be eligible to serve on the State Board of Proprietary Schools as appointed members.

(d) One initial member appointed by each appointing authority shall be appointed for a term ending December 30, 2014; the other member shall be appointed for a term ending December 30, 2017. Subsequent appointments shall be for six-year terms beginning on January 1. No person shall be appointed or elected to more than two consecutive six-year terms.

Vacancies in appointments made by the Governor shall be filled by the Governor. Vacancies in the appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

(e) The State Board of Proprietary Schools may declare vacant the office of a member who does not attend three consecutive scheduled meetings without justifiable excuse. The Chair of the State Board of Proprietary Schools shall notify the appropriate appointing authority of any such vacancy.

(f) The State Board of Proprietary Schools shall elect from its membership a chair and such other officers as it may deem necessary. Officers shall serve for a term of two years.

(g) The State Board of Proprietary Schools shall meet at stated times established by the State Board of Proprietary Schools but not less frequently than four times a year. Special meetings of the State Board of Proprietary Schools may be set at any regular meeting or may be called by the chair. A majority of the qualified members of the State Board of Proprietary Schools shall constitute a quorum for the transaction of business. (2011-308, s. 1.)

#### **§ 115D-89.2. Office of Proprietary Schools; staff.**

The Office of Proprietary Schools shall be the principal administrative unit under the direction of the State Board of Proprietary Schools. Unless otherwise specified in G.S. 115D-89.3, the State Board of Proprietary Schools has authority to recommend for adoption and to administer all policies, regulations, and standards which it deems necessary for the operation of the Office of Proprietary Schools.

The State Board of Proprietary Schools shall hire an executive director of the Office of Proprietary Schools, who shall serve as chief administrative officer of the Office of Proprietary Schools, or contract with an outside consultant to serve as the executive director. The compensation of this position shall be fixed by the State Board of Proprietary Schools from funds provided by fees deposited in the Commercial Education Fund.

The State Board of Proprietary Schools may hire other employees as it deems necessary to carry out the provisions of this Article. The compensation of the staff members hired by the State Board of Proprietary Schools shall be fixed by the State Board of Proprietary Schools upon

recommendation of the Executive Director of the Office of Proprietary Schools. The Executive Director shall provide an annual projected operating budget to the State Board of Proprietary Schools at a time each year designated by the State Board of Proprietary Schools. The budget will be approved by the State Board of Proprietary Schools from funds provided by fees deposited in the Commercial Education Fund. (2011-308, s. 1; 2012-142, s. 8.9A(b).)

**§ 115D-89.3. State Board of Proprietary Schools and State Board of Community Colleges; licensing authority and coordination of responsibilities to administer Article.**

The State Board of Community Colleges, having the authority under G.S. 115D-89 to grant and issue licenses to proprietary schools by and through the State Board of Proprietary Schools, shall receive written recommendation from the State Board of Proprietary Schools concerning applicants for licenses and annual renewal applications for licenses. The State Board of Proprietary Schools shall prepare and have approved by the State Board of Community Colleges a certificate of license that reflects the recommendation of the State Board of Proprietary Schools and approval by the State Board of Community Colleges. The State Board of Community Colleges shall also receive from the State Board of Proprietary Schools and have authority concerning proposed changes to the General Statutes and rules affecting proprietary schools. The State Board of Community Colleges shall receive a written report annually from the State Board of Proprietary Schools to include the number of schools receiving initial licenses during the previous year, a list of currently licensed proprietary schools, school closures during the previous year, including a complete report of actions concerning any catastrophic closures, complaints received and resulting decisions or actions, total fees received, and balances of the Commercial Education Fund and the Student Protection Fund. The State Board of Proprietary Schools shall provide the State Board of Community Colleges with any information requested. (2011-308, s. 1.)

**§ 115D-89.4. Powers of the State Board of Proprietary Schools.**

(a) In order to carry out the purposes of this Article, the State Board of Proprietary Schools, subject to other provisions of this Article, shall:

- (1) Have the powers of a body corporate, including the power to make contracts and to alter the same as may be deemed expedient;
- (2) Be authorized and empowered to rent and lease such property, real or personal, as the State Board of Proprietary Schools may deem proper to carry out the purposes and provisions of this Article, all or any of them;
- (3) Establish an office for the transaction of its business at such place or places as, in the opinion of the State Board of Proprietary Schools, shall be advisable or necessary in carrying out the purposes of this Article;
- (4) Be authorized and empowered to pay from the Commercial Education Fund all necessary costs and expenses involved in and incident to the formation, organization, and administration of the State Board of Proprietary Schools and all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this Article; and
- (5) Be authorized and empowered to do any and all other acts and things in this Article authorized or required to be done, whether or not included in the general powers listed in this section.

(b) The purchase of goods and services by the State Board of Proprietary Schools shall be exempt from the requirements of Article 3 of Chapter 143 of the General Statutes. (2012-142, s. 8.9A(a).)

**§ 115D-90. License required; application for license; school bulletins; requirements for issuance of license; license restricted to courses indicated; supplementary applications.**

(a) No person shall operate, conduct or maintain or offer to operate in this State a proprietary school unless a license is first secured from the State Board of Community Colleges granted in accordance with the provisions of this Article and the rules adopted by the Board under the authority of G.S. 115D-89. The license, when issued, shall constitute the formal acceptance by the Board of the educational programs and facilities of each school approved.

(b) Application for a license shall be filed in the manner and upon the forms prescribed and furnished by the State Board of Proprietary Schools for that purpose. Such application shall be signed by the applicant and properly verified and shall contain such of the following information as may apply to the particular school for which a license is sought:

- (1) The title or name of the school or classes, together with the name and address of the owners and of the controlling officers thereof.
- (2) The general field of instruction.
- (3) The place or places where such instruction will be given.
- (4) A specific listing of the equipment available for instruction in each field.
- (5) The qualifications of instructors and supervisors.
- (6) Financial resources available to equip and to maintain the school or classes.
- (7) Such additional information as the State Board, acting by and through the State Board of Proprietary Schools, may deem necessary to enable it to determine the adequacy of the program of instruction and matters pertaining thereto. Each application shall be accompanied by a copy of the current bulletin or catalog of the school which shall be in published form and certified by an authorized official of the school as being current, true, and correct in content and policy. The school bulletin shall contain the following information:
  - a. Identifying data, such as volume number and date of publication.
  - b. Names of the institution and its governing body, officials and faculty.
  - c. A calendar of the institution showing legal holidays, beginning and ending date of each quarter, term or semester, and other important dates.
  - d. Institution's policy and regulations relative to leave, absences, class cuts, make-up work, tardiness and interruptions for unsatisfactory attendance.
  - e. Institution's policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course.

- f. Institution's policy and regulations relative to standards of progress required of the student by the institution. This policy will define the grading system of the institution; the minimum grades considered satisfactory; conditions for interruption for unsatisfactory grades or progress and description of the probationary period, if any, allowed by the institution; and conditions of reentrance for those students dismissed for unsatisfactory progress. A statement will be made regarding progress records kept by the institution and furnished the student.
- g. Institution's policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct.
- h. Detailed schedule for fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges.
- i. Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom. The policy and regulations shall provide for, at a minimum, a full refund if a student withdraws before the first day of class or the school cancels the class and a seventy-five percent (75%) refund if the student withdraws within the first twenty-five percent (25%) of the period of enrollment for which the student was charged.
- j. A description of the available space, facilities and equipment.
- k. A course outline for each course for which approval is requested, showing:
  - 1. Subjects or units in the course,
  - 2. Type of skill to be learned, and
  - 3. Approximate (i) time; (ii) clock hours, and (iii) credit hours or credit hours equivalent, as appropriate, to be spent on each subject or unit.
- l. Policy and regulations of the institution relative to granting credit for previous educational training.

(c) After due investigation and consideration on the part of the State Board, acting by and through the State Board of Proprietary Schools, as provided herein, a license shall be granted to the applicant when it is shown to the satisfaction of the State Board that said applicant, school, programs of study or courses are found to have met the following criteria:

- (1) The courses, curriculum and instruction are consistent in quality, content and length with similar courses in public schools and other private schools in the State, with recognized accepted standards.
- (2) There is in the institution adequate space, equipment, instructional material and instructor personnel to provide training of good quality.
- (3) Education and experience qualifications of director, administrators and instructors are adequate.

- (4) The institution maintains a written record of the previous education and training of the student.
- (5) A copy of the course outline, schedule of tuition, fees and other charges, regulations pertaining to absences, grading policy and rules of operation and conduct will be furnished the student upon enrollment.
- (6) Upon completion of training, the student is given a certificate or diploma by the institution indicating the approved course or subjects and indicating that training was satisfactorily completed.
- (7) Adequate records as prescribed by the State Board of Community Colleges, acting by and through the State Board of Proprietary Schools, are kept to show attendance and progress or grades and satisfactory standards relating to attendance, progress and conduct are enforced.
- (8) The school complies with all local, city, county, municipal, State and federal regulations, such as fire codes, building and sanitation codes. The State Board of Community Colleges may require such evidence of compliance as is deemed necessary.
- (9) The school is financially sound and capable of fulfilling its commitments for training.
- (10) The school does not exceed its enrollment limitation as established by the State Board of Community Colleges.
- (11) The school does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission or intimation.
- (12) The school's administrators, directors, owners and instructors are of good reputation and character.
- (13) Such additional criteria as may be deemed necessary by the State Board of Community Colleges.

(d) Any license issued shall be restricted to the programs of instruction or courses or subjects specifically indicated in the application for a license. The holder of a license shall present a supplementary application as may be directed by the State Board of Proprietary Schools for approval of additional programs of instruction, courses, or subjects, in which it is desired to offer instruction during the effective period of the license. (1955, c. 1372, art. 30, ss. 3, 4; 1957, c. 1000; 1961, c. 1175, s. 4; 1981, c. 423, s. 1; 1987, c. 442, ss. 1, 2; 1989 (Reg. Sess., 1990), c. 877, s. 4; 1991, c. 636, s. 11; 2011-21, ss. 4, 5; 2011-308, s. 4.)

**§ 115D-91. Duration and renewal of licenses; notice of change of ownership, administration, etc.; license not transferable.**

- (a) All licenses issued shall expire on June 30.
- (b) Unless a duration is otherwise prescribed by the State Board of Community Colleges, licenses shall be renewable annually on July 1 if all of the following conditions are met:
  - (1) An application for the renewal of the license has been filed in the form and manner prescribed by the State Board, acting by and through the State Board of Proprietary Schools.
  - (2) The renewal fee has been paid.

- (3) The school and its courses, facilities, faculty and all other operations are found to meet the criteria set forth in the requirements for a school to secure an original license.

(c) After a license is granted to any school by the State Board of Community Colleges on the basis of its application, it shall be the responsibility of said school to notify immediately the State Board of any changes in the ownership, administration, location, faculty, the instructional program or other changes as may affect significantly the course of instruction offered.

(d) In the event of the sale of such school, the license already granted to the original owner or operators thereof shall not be transferable to the new ownership or operators. Provided, however, the State Board of Proprietary Schools may issue a 90-day, temporary operating license to a school upon its sale if the school held a valid, current license prior to the sale, and if the State Board of Proprietary Schools finds that the school is likely to qualify after the sale for a license under this Article. (1955, c. 1372, art. 30, s. 4; 1957, c. 1000; 1961, c. 1175, s. 5; 1981, c. 423, s. 1; 1987, c. 442, ss. 1, 2; 1989 (Reg. Sess., 1990), c. 877, s. 5; 2011-21, s. 6; 2011-308, s. 5.)

**§ 115D-92. Authority to establish fees; Commercial Education Fund established; refund of fees.**

The State Board of Proprietary Schools, as provided in G.S. 115D-89.3, shall establish reasonable fees for licenses, renewals, and approvals granted, and for inspections performed pursuant to this Article in accordance with Article 2A of Chapter 150B of the General Statutes.

The fees and licenses collected under this section shall be placed in a special fund to be designated the "Commercial Education Fund" and shall be used under the supervision and direction of the State Board of Proprietary Schools for the administration of this Article. No license fee shall be refunded in the event the application is rejected or the license suspended or revoked. (1961, c. 1175, s. 6; 1981, c. 423, s. 1; 1987, c. 442, ss. 1, 2; 1989 (Reg. Sess., 1990), c. 877, s. 6; 2011-308, s. 6.)

**§ 115D-93. Suspension, revocation or refusal of license; notice and hearing; judicial review; grounds.**

(a) A refusal to issue, refusal to renew, suspension of, or revocation of a license under this section shall be made in accordance with Chapter 150B of the General Statutes.

(b) A decision under this section to refuse to grant, refuse to renew, suspend, or revoke a license is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes.

(c) The State Board, acting by and through the State Board of Proprietary Schools, shall have the power to refuse to issue or renew any such license and to suspend or revoke any such license theretofore issued in case it finds one or more of the following:

- (1) That the applicant for or holder of such a license has violated any of the provisions of this Article or any of the rules promulgated thereunder.
- (2) That the applicant for or holder of such a license has knowingly presented to the State Board of Community Colleges false or misleading information relating to approval or license.
- (3) That the applicant for or holder of such a license has failed or refused to permit authorized representatives of the State Board of Community Colleges to inspect the school, or has refused to make available to them



at any time upon request full information pertaining to matters within the purview of the State Board of Community Colleges under the provisions of this Article.

- (4) That the applicant for or holder of such a license has perpetrated or committed fraud or deceit in advertising the school or in presenting to the prospective students written or oral information relating to the school, to employment opportunities, or to opportunities for enrollment in other institutions upon completion of the instruction offered in the school.
- (5) That the applicant or licensee has pleaded guilty, entered a plea of nolo contendere or has been found guilty of a crime involving moral turpitude by a judge or jury in any state or federal court.
- (6) That the applicant or licensee has failed to provide or maintain premises, equipment or conditions which are adequate, safe and sanitary, in accordance with such standards of the State of North Carolina or any of its political subdivisions, as are applicable to such premises and equipment.
- (7) That the licensee is employing teachers, supervisors or administrators who have not been approved by the State Board, acting by and through the State Board of Proprietary Schools.
- (8) That the licensee has failed to provide and maintain adequate premises, equipment, materials or supplies, or has exceeded the maximum enrollment for which the school or class was licensed.
- (9) That the licensee has failed to provide and maintain adequate standards of instruction or an adequate and qualified administrative, supervisory or teaching staff.
- (10) That the applicant for or a holder of a license has failed to provide a required bond or bond alternative.
- (11) That the applicant for or holder of a license has failed to pay assessments into the Student Protection Fund. (1961, c. 1175, s. 7; 1973, c. 1331, s. 3; 1981, c. 423, s. 1; 1987, c. 442, ss. 1, 2; c. 827, s. 53; 1989 (Reg. Sess., 1990), c. 877, s. 7; 2009-562, s. 1; 2011-308, s. 7.)

**§ 115D-94: Repealed by Session Laws 1983 (Regular Session, 1984), c. 995, s. 17.**

**§ 115D-95. Bonds required.**

(a) Requirement. – An applicant for a license must comply with the bond requirements in this section. The bond covers the potential loss by students of the school of prepaid tuition and other payments made by them to a school licensed under this Article by reason of the school ceasing to operate for any reason, including the suspension, revocation, or nonrenewal of a school's license, bankruptcy, or foreclosure.

(b) Amount. – An applicant for a license must file a bond with the North Carolina State Board of Community Colleges executed by the applicant as a principal and by a bonding company authorized to do business in this State. The bond must be payable to the State Board of Community Colleges, must be conditioned on fulfillment of the school's obligations, and must remain in effect

until cancelled by the bonding company. The bonding company may cancel the bond upon 30 days' notice to the State Board of Community Colleges.

The application must set out calculations made by the applicant to determine the amount of bond required with the application. The required amount is determined as follows:

- (1) Initial licensure. – For an applicant for initial licensure of a school, the bond amount is the amount determined by the State Board that is adequate to provide indemnification to any student, or the student's parent or guardian who has suffered a loss of tuition, fees, or any other instructional-related expenses paid to the school. A bond amount shall be at least twenty-five thousand dollars (\$25,000).
- (2) First four renewals. – For a school that has been licensed for one year but less than six years, the bond shall be in an amount equal to the greatest amount of unearned paid tuition in the school's possession at anytime during the prior fiscal year. The bond amount shall be evaluated by the school quarterly and reported to the State Board or its representative. A quarterly evaluation requiring an increase of five percent (5%) or more in the amount of the bond held by the school shall require an immediate increase in the bond amount. Bond amounts also shall be evaluated pursuant to this subdivision and the rules of the State Board of Community Colleges and State Board of Proprietary Schools at the time of the school's annual license renewal and increased if necessary regardless of the amount of the change.
- (3) Schools in operation more than five years. – A guaranty bond shall be required for license renewal for a school that has been continuously licensed to operate for more than five years in the State, as follows:
  - a. If the balance of the Student Protection Fund in G.S. 115D-95.1 is below the catastrophic loss amount, the school shall file a guaranty bond in an amount equal to the maximum amount of prepaid tuition held by the school during the prior fiscal year multiplied by the percentage amount the fund is deficient.
  - b. If the school held prepaid tuition in excess of the Student Protection Fund catastrophic loss amount during the prior fiscal year, in addition to any bond amount required by sub-subdivision a. of this subdivision, the school shall file a guaranty bond for the difference between the prepaid tuition amount held in the previous fiscal year and the Fund catastrophic loss amount.

(c) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the State Board of Community Colleges and approval of one of the guaranty bond alternatives set forth in this subsection. With the approval of the State Board, an applicant may obtain in lieu of a bond:

- (1) An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the State Board of Community Colleges; (ii) which is executed by the applicant; and (iii)

which is executed by a state or federal savings and loan association, state bank, or national bank, that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subsection (b) of this section.

- (2) A certificate of deposit (i) which is executed by a state or federal savings and loan association, state bank, or national bank, which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the State Board of Community Colleges; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the State Board of Community Colleges; or in the case of a nonnegotiable certificate of deposit, is assigned to the State Board of Community Colleges in a form satisfactory to the State Board; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subsection (b) of this section. (1955, c. 1372, art. 30, s. 5; 1957, c. 1000; 1961, c. 1175, s. 9; 1981, c. 423, s. 1; 1987, c. 442, ss. 1, 2; 1989 (Reg. Sess., 1990), c. 824, s. 1; 2009-562, s. 2; 2011-308, s. 8.)

#### **§ 115D-95.1. Student Protection Fund.**

(a) Definitions. – As used in this section:

- (1) "Catastrophic loss amount" means the amount of funds required to protect prepaid student tuition in case of a large-scale event that would draw against the Student Protection Fund. The amount is one million dollars (\$1,000,000).
- (2) "Fund cap amount" means the catastrophic loss amount plus a reserve amount. The amount is one million five hundred thousand dollars (\$1,500,000).

(b) Student Protection Fund. – The Student Protection Fund is established in the Department of State Treasurer as a statewide fee-supported fund. Interest accruing to the Fund is credited to the Fund. The State Board of Proprietary Schools administers the Fund. The purpose of the Fund is to compensate students enrolled in a proprietary school licensed under this Article who have suffered a loss of tuition, fees, or any other instructional-related expenses paid to the school by reason of the failure of the school to offer or complete student instruction, academic services, or other goods and services related to course enrollment if the school ceases to operate for any reason, including the suspension, revocation, or nonrenewal of a school's license, bankruptcy, or foreclosure.

(c) Student Protection Fund Advisory Committee. – The State Board of Proprietary Schools shall serve as the Student Protection Advisory Committee. The Committee shall advise the State Board of Community Colleges on matters related to the Fund, including, but not limited to, the adjustment of the catastrophic loss amount and Fund cap amount.

(d) Initial Payment. – Prior to its first year of operation in the State, each proprietary school shall pay an initial amount of one thousand two hundred fifty dollars (\$1,250) into the Fund.

(e) Annual Revenue Payment. – Each proprietary school operating in the State shall pay annually into the Fund an amount based on its annual gross tuition revenue generated in the State as follows:

Annual Gross Tuition Revenue	Amount of Assessment
\$1.00 – \$25,000	\$200.00
\$25,001 – \$50,000	\$250.00
\$50,001 – \$100,000	\$300.00
\$100,001 – \$200,000	\$400.00
\$200,001 – \$300,000	\$500.00
\$300,001 – \$400,000	\$600.00
\$400,001 – \$500,000	\$700.00
\$500,001 – \$750,000	\$1,000
\$750,001 – \$1,000,000	\$1,250
\$1,000,001 – \$1,500,000	\$1,500
\$1,500,001 – \$2,000,000	\$2,000
Greater than \$2,000,000	\$2,000 plus one-twentieth of one percent (.05%) of annual gross tuition revenue over \$2,000,000.

(f) Suspension of Payments. – If the Student Protection Fund balance is equal to or exceeds the Fund cap amount, the State Board of Proprietary Schools shall suspend payments into the Fund for schools that have been continuously licensed in the State for more than eight years. The State Board of Proprietary Schools shall require schools to resume payments into the Fund if the balance of the Fund is less than the catastrophic loss amount.

(g) Catastrophic Assessments. – If claims against the Student Protection Fund exceed the catastrophic loss amount, the State Board of Proprietary Schools may assess additional fees to the extent necessary to compensate students qualified for repayment under the Fund. The amount of the catastrophic assessment shall not exceed one-half of the amount of the annual revenue payment required by subsection (e) of this section. If the amount of the catastrophic assessment will be insufficient to cover qualified claims, the State Board shall develop a method of allocating funds among claims.

(h) Payment Required for Proprietary School Licensure. – The full and timely payment into the Fund pursuant to this section is a condition of licensure.

(i) Payments Nonrefundable. – No payment to the Student Protection Fund shall be refunded in the event that a school's license application is rejected or a school's license is suspended or revoked.

(j) Student Repayment. – A student, or the student's parent or guardian, who has suffered a loss of tuition, fees, or any other instructional-related expenses paid to a proprietary school licensed under this Article by reason of the school ceasing to operate for any reason, including the suspension, revocation, or nonrenewal of a school's license, bankruptcy, or foreclosure, may qualify for repayments under the Student Protection Fund. The State Board of Community Colleges first must issue repayment from the bonds issued under G.S. 115D-95. If the Student Protection Fund is insufficient to cover the qualified claims, the State Board must develop a method of allocating funds among claims.

(k) Rules. – The State Board of Proprietary Schools shall adopt rules for the implementation of this section. (2009-562, s. 4; 2011-308, s. 9.)

**§ 115D-96. Operating school without license or bond made misdemeanor.**

Any person, or each member of any association of persons or each officer of any corporation who opens and conducts a proprietary school without first having obtained the license herein required, and without first having executed the bond, paid the assessments into the Student Protection Fund, or both, as required by law, shall be guilty of a Class 3 misdemeanor, and each day the school continues to be open and operated shall constitute a separate offense. (1955, c. 1372, art. 30, s. 7; 1957, c. 1000; 1961, c. 1175, s. 10; 1981, c. 423, s. 1; 1987, c. 442, s. 2; 1989 (Reg. Sess., 1990), c. 877, s. 8; 1993, c. 539, s. 894; 1994, Ex. Sess., c. 24, s. 14(c); 2009-562, s. 3; 2011-21, s. 7.)

**§ 115D-97. Contracts with unlicensed schools and evidences of indebtedness made null and void.**

All contracts entered into by proprietary schools with students or prospective students, and all promissory notes or other evidence of indebtedness taken in lieu of cash payments by such schools shall be null and void unless such schools are duly licensed as required by this Article. (1957, c. 1000; 1961, c. 1175, s. 11; 1981, c. 423, s. 1; 1987, c. 442, s. 2; 1989 (Reg. Sess., 1990), c. 877, s. 9; 2011-21, s. 8.)

Article 9.

Postsecondary Education Credentials.

**§ 115D-105. (Expires June 30, 2019) Board of Postsecondary Education Credentials.**

(a) Findings. – The General Assembly finds that, in today's economy, opportunities for North Carolina's citizens to reach the middle class with a high school level education or even less have significantly decreased. To be competitive and obtain better paying jobs that lead to a better quality of life in the State's current and future economy, most citizens will need some type of postsecondary education that qualifies them for employment. The General Assembly recognizes the importance of bringing together potential employers and providers of postsecondary education for the purpose of identifying workforce skills and training needs and developing courses of study and vocational training that meet the standards expected and required by industries, corporations, and other employers. The General Assembly further finds that the establishment of a permanent board with members who are knowledgeable about postsecondary education and workforce training needs will enable providers of postsecondary education to prepare and design training programs that are responsive to workforce needs and that will assist the State's citizens in securing the credentials required to obtain better paying jobs.

The General Assembly recognizes that postsecondary education opportunities should be easily available and accessible to all citizens. Therefore, the General Assembly encourages State educators, when designing the method and manner for delivering postsecondary educational programs, to take into account the varying income levels and economic circumstances of the State's citizens, transportation needs, and other unique challenges in both urban and rural areas of the State that affect accessibility to postsecondary education opportunities and to make genuine efforts to accommodate and address those factors.

The General Assembly also finds that most employers consider postsecondary credentials such as academic degrees and high-quality, nondegree certifications awarded by institutions of higher education when determining whether a person has the expertise and skills required for a job. However, high-quality credentials may also be obtained through other alternative models such as open-source online programs, on-the-job training, and military experience. Therefore, it is essential that a system also be devised in which the meaning and validity of postsecondary credentials is clear and understandable to educators, employers, and students and that accurately conveys the knowledge, skills, and training obtained by an individual however and wherever it is obtained.

(b) Board Established. – There is established the Board of Postsecondary Education Credentials to be located administratively under the Community Colleges System Office; however, the Board shall exercise all its prescribed powers independently of the Community Colleges System Office. The Board shall consist of the following members:

- (1) The Lieutenant Governor.
- (2) The President of The University of North Carolina or the President's designee.
- (3) The President of the North Carolina Community College System or the President's designee.
- (4) The Superintendent of Public Instruction or the Superintendent's designee.
- (5) The Commissioner of Labor or the Commissioner's designee.
- (6) The Secretary of Commerce or the Secretary's designee.
- (7) The President of North Carolina Independent Colleges and Universities or the President's designee.
- (8) The Executive Director of the Office of Proprietary Schools or the Executive Director's designee.
- (9) The President of the North Carolina Hospital Association or the President's designee.
- (10) The Executive Director of the North Carolina State Education Assistance Authority or the Executive Director's designee.

(c) Purpose. – The purpose of the Board is to review and make recommendations for the development of a statewide system of postsecondary education that links industry, corporations, and businesses in this State with educators, government, and community organizations to identify workforce skills and training needs and to ensure that appropriate courses of study and vocational training are available to North Carolinians, including those preparing to pursue postsecondary education, entering the workforce, or seeking to update skills and training for purposes of retaining employment and advancing in the workforce.

In addition, the Board shall identify alternative ways in which people gain valuable workforce skills and experience, such as on-the-job training, that are not represented by four-year or two-year degrees and the types of credentials used to signify competence of a certain level upon successful completion of the alternative training experience. The Board shall review and make recommendations on those criteria to be used to determine the value of a nondegree credential, the competencies that it represents, and how it should be compared and valued with regard to other types of postsecondary credentials.

(d) Duties. – The duties of the Board include the following:

- (1) Recommend State goals and a framework for achieving those goals among educators to ensure that, by 2025, the appropriate percentage, as recommended by the Board, of the State's adult citizens will hold degrees, certificates, or other high-quality postsecondary credentials. The Board shall recommend a division of responsibility among The University of North Carolina System, the State's Community College System, and any other providers of postsecondary education credentials for achieving the goals recommended by the Board. The Board shall periodically review the progress made toward the recommended goals, evaluate the strategies developed and used toward attaining those goals, and may make additional recommendations.
- (2) Identify the credentials that are acceptable for meeting those recommended goals and recommend how the responsibility for providing the courses of study and training for those credentials should be assigned among the State's educators and others. In making these recommendations, consideration shall be given to the fact that the individuals who need these courses of study and training are of various economic levels and are also located in rural areas and metropolitan areas across the State. These factors shall be taken into account with regard to the location and delivery of the courses of study and training programs.
- (3) Address the issue of postsecondary credentials, the various levels of skill and knowledge those credentials signify, and how to accurately convey that information to employers, students and trainees, and providers of postsecondary education. The Board shall consider procedures and methods for recognizing skills and training needed in the workforce that an individual may have obtained through military experience, through on-the-job and employee-proved training, or through other life experiences.
  - (e) Chair. – The Lieutenant Governor shall serve as Chair of the Board.
  - (f) Hire Staff and Consultants. – To the extent of funds available, the Chair of the Board may, with the approval of the Board, hire staff or consultants to assist the Board in carrying out its purpose and duties.
  - (g) Travel and Subsistence. – Members, staff, and consultants of the Board shall receive travel and subsistence expenses in accordance with the provisions of G.S. 138-5 or G.S. 138-6, as appropriate.
  - (h) Meeting Space. – With the approval of the Legislative Services Commission, space in the Legislative Building and the Legislative Office Building may be made available to the Board.
  - (i) Frequency of Meetings and Quorum. – The Board shall meet upon the call of the Chair and shall have its first meeting no later than October 1, 2017. The Board shall meet at least quarterly. A majority of the members of the Board shall constitute a quorum for the transaction of business.
  - (j) Reporting Requirement. – The Board shall submit to the Joint Legislative Education Oversight Committee an initial report no later than March 1, 2018, regarding the goals recommended by the Board pursuant to this section and the progress made toward meeting those

goals. The Board shall submit a progress report to the Committee no later than March 1, 2019, regarding the progress made toward meeting the goals. The reports shall include any recommendations by the Board regarding legislation needed to implement this section. (2017-57, s. 9.11(a).)