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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 Division of 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).)

§ 115D-1.1: Repealed by Session Laws 2011-145, s. 7.1A(f), effective January 1, 2012.

§ 115D-1.2: Repealed by Session Laws 2011-145, s. 7.1A(f), effective January 1, 2012.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

1 where the course is comparable in content and quality and is
2 appropriate to a chosen course of study;

3 c. Vocational, trade, and technical specialty courses and programs, and

4 d. Courses in general adult education.

5 (3) The term "institution" refers to any institution established pursuant to this
6 Chapter.

7 (4) The term "regional institution" means an institution whose service area as
8 assigned by the State Board of Community Colleges includes three or more
9 counties; provided, however, any institution receiving funds as a regional
10 institution on May 1, 1987, shall continue to receive funds on that basis.

11 (5) The term "State Board" refers to the State Board of Community Colleges.

12 (6) The "tax-levying authority" of an institution is the board of commissioners
13 of the county or all of the boards of commissioners of the counties, jointly,
14 which constitute the administrative area of the institution.

15 (7) Repealed by Session Laws 1987, c. 564, s. 1.

16 (8) "Vending facilities" has the same meaning as it does in G.S. 111-42(d), but
17 also means any mechanical or electronic device dispensing items or
18 something of value or entertainment or services for a fee, regardless of the
19 method of activation, and regardless of the means of payment, whether by
20 coin, currency, tokens, or other means. (1963, c. 448, s. 23; 1969, c. 562, s.
21 2; 1973, c. 590, s. 1; 1979, c. 462, s. 2; c. 553; c. 896, s. 1; 1979, 2nd Sess.,
22 c. 1130, s. 1; 1983, c. 761, s. 104; 1983 (Reg. Sess., 1984), c. 1034, s. 169;
23 1987, c. 564, s. 1; 1999-84, s. 1; 2005-103, s. 4; 2006-203, s. 35.)
24

25 **§ 115D-2.1. State Board of Community Colleges.**

26 (a) The State Board of Community Colleges is established.

27 (b) The State Board of Community Colleges shall consist of 21 members, as follows:

28 (1) The Lieutenant Governor or the Lieutenant Governor's designee shall be a
29 member ex officio.

30 (2) The Treasurer of North Carolina or the Treasurer's designee shall be a
31 member ex officio.

32 (3) The Governor shall appoint to the State Board four members from the State
33 at large and one member from each of the six Trustee Association Regions
34 defined in G.S. 115D-62. The initial appointments by the Governor shall be
35 made effective July 1, 1980, or as soon as feasible thereafter. In order to
36 establish regularly overlapping terms, the initial appointments by the
37 Governor shall be made so that three expire June 30, 1981, three expire June
38 30, 1983, and four expire June 30, 1985. Each subsequent regular
39 appointment by the Governor shall be for a term of six years and until a
40 successor is appointed and qualifies. Any vacancy occurring among his
41 appointees before the expiration of term shall be filled by appointment of the
42 Governor; the member so appointed shall meet the same residential
43 qualification, if any, as the member whom he succeeds and shall serve for
44 the remainder of the unexpired term of that member.

45 (4) The General Assembly shall elect eight members of the State Board from the
46 State at large in the following manner:

47 a. In 1980, the Senate shall elect three members, one of whom shall
48 serve a term expiring June 30, 1981, one of whom shall serve a term
49 expiring June 30, 1983, and one of whom shall serve a term expiring
50 June 30, 1985. In 1985, the Senate shall elect two members to serve
51 terms expiring June 30, 1991. Each subsequent regular election by

1 the Senate shall be for a term of six years and until a successor is
2 elected and qualifies.

3 b. In 1980, the House of Representatives shall elect four members, one
4 of whom shall serve a term expiring June 30, 1981, one of whom
5 shall serve a term expiring June 30, 1983, and two of whom shall
6 serve a term expiring June 30, 1985. In 1985, the House of
7 Representatives shall elect two members, to serve terms expiring
8 June 30, 1991. Each subsequent regular election by the House of
9 Representatives shall be for a term of six years and until a successor
10 is elected and qualifies.

11 c. Repealed by Session Laws 1985, c. 227, s. 5.

12 d. The initial elections by the two houses of the General Assembly shall
13 be held on or before July 1, 1980.

14 e. Any vacancy occurring among the members elected by the two
15 houses of the General Assembly before the expiration of term shall
16 be filled when the General Assembly next convenes. The member
17 then elected shall be elected by the same house that elected the
18 member whom he succeeds, and shall serve for the remainder of the
19 unexpired term of that member.

20 f. At each session of the General Assembly held in an odd-numbered
21 year, the Speaker of the House of Representatives and the President
22 Pro Tempore of the Senate shall assign to either a standing or a
23 special committee of that house the duty of receiving from the
24 members of that house nominations of persons to be considered by
25 that house for election to the State Board. The chairmen of the two
26 committees shall jointly determine a common final date for receiving
27 nominations from members of that house, and a common date for
28 reporting to their respective houses their nominations for the State
29 Board. Each committee shall screen the proposed candidates for
30 nomination as to their qualifications, background, lack of statutory
31 disabilities, and willingness and ability to serve if elected. Each
32 Senator and each Representative may nominate only one candidate.
33 When the nominating process is closed, each committee shall list all
34 candidates and shall separately vote "aye" or "no" on each candidate
35 to determine whether that person shall be listed as a nominee of the
36 committee. The verbal vote of a majority of those members of the
37 committee present and voting shall constitute one nominee of the
38 committee. An individual cannot be a candidate for nomination to
39 more than one place. If a sufficient number of candidates is
40 submitted to each committee, then each committee shall nominate at
41 least two persons for each place to be filled by that chamber,
42 otherwise each committee shall nominate at least one person for each
43 place to be filled by each of the House of Representatives and the
44 Senate. No person may simultaneously be a candidate for election by
45 both houses, and if one is nominated in both houses, he shall
46 determine by which house he shall be nominated and so advise the
47 chairman of both committees. The two houses shall, by joint
48 resolution, fix a common date and time for the election of members
49 of the State Board. At the election session in each house, the
50 committee shall report its list of nominees with the term of office
51 indicated for each nominee. The ballot in the House of

1 Representatives shall also include the names of all other persons
2 nominated by a member of that house who are determined by the
3 committee to be qualified for the offices, with the committee's list of
4 nominees being clearly set out on the ballot. No additional
5 nominations shall be received from the floor. Each house shall then
6 proceed to an election of the State Board. In order to be chosen, a
7 nominee shall receive the votes of a majority of all members present
8 and voting.

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

17 (5) The person serving as president of the North Carolina Comprehensive
18 Community College Student Government Association shall be an ex officio
19 member of the State Board. If the president of the Association is unable for
20 any reason to serve as the student member of the State Board, then pursuant
21 to the constitution of the Association, the vice-president of the Association
22 shall serve as the student member of the State Board. Any person serving as
23 the student member of the State Board must be a student in good standing at
24 a North Carolina community college. The student member of the State Board
25 shall have all the rights and privileges of membership, except that the
26 student member shall not have a vote.

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

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

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

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

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

50 (g) The State Board of Community Colleges shall meet at stated times established by
51 the State Board, but not less frequently than 10 times a year. The State Board of Community

1 Colleges shall also meet with the State Board of Education and the Board of Governors of The
2 University of North Carolina at least once a year to discuss educational matters of mutual
3 interest and to recommend to the General Assembly such policies as are appropriate to
4 encourage the improvement of public education at every level in this State; these joint meetings
5 shall be hosted by the three Boards according to the schedule set out in G.S. 115C-11(b1).
6 Special meetings of the State Board may be set at any regular meeting or may be called by the
7 chairman. A majority of the qualified members of the State Board shall constitute a quorum for
8 the transaction of business.

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

11 (i) The State Board of Community Colleges may declare vacant the office of an
12 appointed or elected member who does not attend three consecutive scheduled meetings
13 without justifiable excuse. The chairman of the State Board shall notify the appropriate
14 appointing or electing authority of any vacancy. (1979, c. 896, s. 2; 1979, 2nd Sess., c. 1130, s.
15 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
16 (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.
17 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);
18 2007-278, s. 3.)

19 § 115D-3. Community Colleges System Office; staff.

20 The Community Colleges System Office shall be a principal administrative department of
21 State government under the direction of the State Board of Community Colleges, and shall be
22 separate from the free public school system of the State, the State Board of Education, and the
23 Department of Public Instruction. The State Board has authority to adopt and administer all
24 policies, regulations, and standards which it deems necessary for the operation of the System
25 Office.
26

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

31 The President shall be assisted by such professional staff members as may be deemed
32 necessary to carry out the provisions of this Chapter, who shall be elected by the State Board on
33 nomination of the President. The compensation of the staff members elected by the Board shall
34 be fixed by the State Board of Community Colleges, upon recommendation of the President of
35 the Community College System, from funds provided in the Current Operations Appropriations
36 Act. These staff members shall include such officers as may be deemed desirable by the
37 President and State Board. Provision shall be made for persons of high competence and strong
38 professional experience in such areas as academic affairs, public service programs, business
39 and financial affairs, institutional studies and long-range planning, student affairs, research,
40 legal affairs, health affairs and institutional development, and for State and federal programs
41 administered by the State Board. In addition, the President shall be assisted by such other
42 employees as may be needed to carry out the provisions of this Chapter, who shall be subject to
43 the provisions of Chapter 126 of the General Statutes. The staff complement shall be
44 established by the State Board on recommendation of the President to insure that there are
45 persons on the staff who have the professional competence and experience to carry out the
46 duties assigned and to insure that there are persons on the staff who are familiar with the
47 problems and capabilities of all of the principal types of institutions represented in the system.
48 The State Board of Community Colleges shall have all other powers, duties, and
49 responsibilities delegated to the State Board of Education affecting the Community Colleges
50 System Office not otherwise stated in this Chapter. (1963, c. 448, s. 23; 1971, c. 1244, s. 14;
51 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,

1 s. 35.2; 1983, c. 479, s. 4; c. 717, s. 26; 1983 (Reg. Sess., 1984), c. 1034, s. 164; 1985 (Reg.
2 Sess., 1986), c. 955, ss. 19, 20; 1987, c. 564, s. 2; 1993, c. 522, s. 6; 1999-84, s. 8.)

3
4 **§ 115D-4. Establishment of institutions.**

5 The establishment of all community colleges shall be subject to the approval of the General
6 Assembly upon recommendation of the State Board of Community Colleges. In no case,
7 however, shall favorable recommendation be made by the State Board for the establishment of
8 an institution until it has been demonstrated to the satisfaction of the State Board that a genuine
9 educational need exists within a proposed administrative area, that existing public and private
10 post-high school institutions in the area will not meet the need, that adequate local financial
11 support for the institution will be provided, that public schools in the area will not be affected
12 adversely by the local financial support required for the institution, and that funds sufficient to
13 provide State financial support of the institution are available. (1963, c. 448, s. 23; 1965, c.
14 1028; 1971, c. 1244, s. 14; 1977, c. 154, s. 1; 1979, c. 462, s. 2; c. 896, s. 4; 1979, 2nd Sess., c.
15 1130, s. 1; 1983, c. 717, ss. 27-27.2; 1985 (Reg. Sess., 1986), c. 955, s. 21; 1987, c. 564, s. 3;
16 2006-203, s. 36; 2009-229, s. 1.)

17
18 **§ 115D-4.1. College transfer program approval; standards for programs.**

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

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

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

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

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

31 (f) The Board of Governors of The University of North Carolina shall report to each
32 community college and to the State Board of Community Colleges in accordance with G.S.
33 116-11(10b) on the academic performance of that community college's transfer students. If the
34 State Board of Community Colleges finds that college transfer students from a community
35 college are not consistently performing adequately at a four-year college, the Board shall
36 review the community college's program and determine what steps are necessary to remedy the
37 problem. The Board shall report annually to the General Assembly on the reports it receives
38 and on what steps it is taking to remedy problems that it finds. (1987, c. 564, s. 4; 1995, c. 288,
39 s. 1; 1999-84, s. 2; 2011-145, s. 8.2(a).)

40
41 **§ 115D-5. Administration of institutions by State Board of Community Colleges;
42 personnel exempt from State Personnel Act; extension courses; tuition waiver;
43 in-plant training; contracting, etc., for establishment and operation of
44 extension units of the community college system; use of existing public school
45 facilities.**

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

1 The State Board of Community Colleges shall establish standards and scales for salaries
2 and allotments paid from funds administered by the State Board, and all employees of the
3 institutions shall be exempt from the provisions of the State Personnel Act. Any and all salary
4 caps set by the State Board for community college presidents shall apply only to the State-paid
5 portion of the salary. Except as otherwise provided by law, the employer contribution rate on
6 the local-paid portion of the salary, to be paid from local funds, shall be set by the State
7 Treasurer based on actuarial recommendations. The State Board shall have authority with
8 respect to individual institutions: to approve sites, capital improvement projects, budgets; to
9 approve the selection of the chief administrative officer; to establish and administer standards
10 for professional personnel, curricula, admissions, and graduation; to regulate the awarding of
11 degrees, diplomas, and certificates; to establish and regulate student tuition and fees within
12 policies for tuition and fees established by the General Assembly; and to establish and regulate
13 financial accounting procedures.

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

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

25 (a2) The State Board of Community Colleges shall comply with the provisions of G.S.
26 116-11(10a) to plan and implement an exchange of information between the public schools and
27 the institutions of higher education in the State.

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

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

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

1 The State Board shall develop a form for the appropriate individuals to
2 provide their written, irrevocable consent for a community college to
3 disclose to the Division of Motor Vehicles that the student no longer meets
4 the conditions for a driving eligibility certificate under G.S. 20-11(n)(1) or
5 G.S. 20-11(n1), if applicable, in the event that this disclosure is necessary to
6 comply with G.S. 20-11 or G.S. 20-13.2. Other than identifying under which
7 statutory subsection the student is no longer eligible, no other details or
8 information concerning the student's school record shall be released pursuant
9 to this consent.

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

- 19 (1) Persons not enrolled in elementary or secondary schools taking courses
20 leading to a high school diploma or equivalent certificate.
- 21 (2) Courses requested by the following entities that support the organizations'
22 training needs and are on a specialized course list approved by the State
23 Board of Community Colleges:
 - 24 a. Volunteer fire departments.
 - 25 b. Municipal, county, or State fire departments.
 - 26 c. Volunteer EMS or rescue and lifesaving departments.
 - 27 d. Municipal, county, or State EMS or rescue and lifesaving
28 departments.
 - 29 e. Radio Emergency Associated Communications Teams (REACT)
30 under contract to a county as an emergency response agency.
31 (v) (vi) municipal county, or State law-enforcement officers
 - 32 f. Municipal, county, or State law enforcement agencies.
 - 33 g. The Division of Adult Correction of the Department of Public Safety
34 for the training of full-time custodial employees and employees of
35 the Division's Section of Community Corrections of the Division of
36 Adult Correction required to be certified under Chapter 17C of the
37 General Statutes and the rules of the Criminal Justice and Training
38 Standards Commission.
 - 39 h. The Division of Juvenile Justice of the Department of Public Safety
40 for the training of employees required to be certified under Chapter
41 17C of the General Statutes and the rules of the Criminal Justice and
42 Training Standards Commission.
- 43 (3) Repealed by Session Laws 2011-145, s. 8.12(a), effective July 1, 2011.
- 44 (4) Trainees enrolled in courses conducted under the Customized Training
45 Program.
- 46 (5) through (9) Repealed by Session Laws 2011-145, s. 8.12(a), effective July 1,
47 2011.
- 48 (10) Elementary and secondary school employees enrolled in courses in first aid
49 or cardiopulmonary resuscitation (CPR).

- 1 (11) Up to six hours of credit instruction and one course of noncredit instruction
2 per academic semester for senior citizens age 65 or older who are qualified
3 as legal residents of North Carolina.
- 4 (12) All curriculum courses taken by high school students at community colleges,
5 in accordance with G.S. 115D-20(4) and this section.
- 6 (13) Human resources development courses for any individual who (i) is
7 unemployed; (ii) has received notification of a pending layoff; (iii) is
8 working and is eligible for the Federal Earned Income Tax Credit (FEITC);
9 or (iv) is working and earning wages at or below two hundred percent
10 (200%) of the federal poverty guidelines.
- 11 (14) Repealed by Session Laws 2011-145, s. 8.12(a), effective July 1, 2011.

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

14 (b1) The State Board of Community Colleges shall not waive tuition and registration fees
15 for community college faculty or staff members. Community colleges may, however, use State
16 or local funds to pay tuition and registration fees for one course per semester for full-time
17 community college faculty or staff members employed for a nine-, ten-, eleven-, or
18 twelve-month term.

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

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

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

36 (d) Recodified as G.S. 115D-5.1(a) by Session Laws 2005-276, s. 8.4(a), effective July
37 1, 2005.

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

39 (f) A community college may not offer a new program without the approval of the
40 State Board of Community Colleges except that approval shall not be required if the tuition for
41 the program will fully cover the cost of the program. If at any time tuition fails to fully cover
42 the cost of a program that falls under the exception, the program shall be discontinued unless
43 approved by the State Board of Community Colleges. If a proposed new program would serve
44 more than one community college, the State Board of Community Colleges shall perform a
45 feasibility study prior to acting on the proposal.

46 The State Board of Community Colleges shall report on an annual basis to the Governor,
47 Lieutenant Governor, the Speaker of the House of Representatives, and the Joint Legislative
48 Commission on Governmental Operations, on all new programs it approved during the year.
49 The report shall include the specific reasons for which each program was approved.

50 (g) Funds appropriated to the Community Colleges System Office as operating
51 expenses for allocation to the institutions comprising the North Carolina Community College

1 System shall not be used to support recreation extension courses. The financing of these
2 courses by any institution shall be on a self-supporting basis, and membership hours produced
3 from these activities shall not be counted when computing full-time equivalent students (FTE)
4 for use in budget-funding formulas at the State level.

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

7 (i) Recodified as G.S. 115D-5.1(c) by Session Laws 2005-276, s. 8.4(a), effective July
8 1, 2005.

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

11 (k) Recodified as G.S. 115D-5.1(b) by Session Laws 2005-276, s. 8.4(a), effective July
12 1, 2005.

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

16 (m) The State Board of Community Colleges shall maintain an education program
17 auditing function that conducts an annual audit of each community college operating under the
18 provisions of this Chapter. The purpose of the annual audit shall be to ensure that college
19 programs and related fiscal operations comply with State law, State regulations, State Board
20 policies, and System Office guidance. The State Board of Community Colleges shall require
21 auditors of community college programs to use a statistically valid sample size in performing
22 program audits of community colleges. All education program audit findings shall be
23 forwarded to the college president, local college board of trustees, the State Board of
24 Community Colleges, and the State Auditor.

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

29 (o) The General Assembly finds that additional data are needed to determine the
30 adequacy of multicampus and off-campus center funds; therefore, multicampus colleges and
31 colleges with off-campus centers shall report annually, beginning September 1, 2005, to the
32 Community Colleges System Office on all expenditures by line item of funds used to support
33 their multicampuses and off-campus centers. The Community Colleges System Office shall
34 report on these expenditures to the Education Appropriation Subcommittees of the House of
35 Representatives and the Senate, the Office of State Budget and Management, and the Fiscal
36 Research Division by December 1 of each year.

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

40 (p) The North Carolina Community College System may offer courses, in accordance
41 with the lateral entry program of study established under G.S. 115C-296(c1), to individuals
42 who choose to enter the teaching profession by lateral entry.

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

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

47 (s) The State Board of Community Colleges may establish, retain and budget fees
48 charged to students taking the General Education Development (GED) test, including fees for
49 retesting. Fees collected for this purpose shall be used only to (i) offset the costs of the GED
50 test, including the cost of scoring the test, (ii) offset the costs of printing GED certificates, and
51 (iii) meet federal and State reporting requirements related to the test.

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

8 (u) The State Board of Community Colleges shall direct each community college to
9 adopt a policy that authorizes a minimum of two excused absences each academic year for
10 religious observances required by the faith of a student. The policy may require that the student
11 provide written notice of the request for an excused absence a reasonable time prior to the
12 religious observance. The policy shall also provide that the student shall be given the
13 opportunity to make up any tests or other work missed due to an excused absence for a
14 religious observance. (1963, c. 488, s. 23; 1967, c. 652; 1969, c. 1294; 1973, c. 768; 1975, c.
15 882; 1977, c. 1065; 1979, c. 462, s. 2; c. 896, ss. 5-7; 1979, 2nd Sess., c. 1130, s. 1; 1981, c.
16 609; c. 859, s. 35.1; c. 897; c. 1127, s. 43; 1983, c. 717, s. 28; 1983 (Reg. Sess., 1984), c. 1034,
17 ss. 45, 46; 1985, c. 479, s. 67; 1985 (Reg. Sess., 1986), c. 955, s. 22; 1987, c. 282, s. 34; c. 564,
18 ss. 8-10, 12, 33; c. 763, s. 1; 1989, c. 162; 1989 (Reg. Sess., 1990), c. 915, s. 1; c. 1066, s. 91;
19 1991, c. 689, ss. 44, 48; 1991 (Reg. Sess., 1992), c. 880, s. 4; 1993, c. 170, s. 2; c. 321, ss. 111,
20 117(e); c. 492, s. 2; 1993 (Reg. Sess., 1994), c. 769, s. 18.4; 1995, c. 288, s. 2; c. 324, s. 16.4;
21 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.
22 4; 1998-111, s. 3; 1998-202, s. 4(q); 1999-84, ss. 3, 9; 1999-243, s. 9; 2000-137, s. 4(t);
23 2001-111, s. 1; 2001-427, s. 9(b); 2001-487, s. 47(e); 2004-124, s. 8.4; 2005-193, s. 1;
24 2005-198, s. 3; 2005-247, s. 3; 2005-2
25 76, 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;
26 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.
27 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,
28 ss. 8.2(b), 8.12(a), (b), 8.13, 19.1(h), (k), (l), 31.2; 2011-391, s. 18(a), (b).)

30 § 115D-5.1. Workforce Development Programs.

31 (a) Community colleges shall assist in the preemployment and in-service training of
32 employees in industry, business, agriculture, health occupation and governmental agencies.
33 Such training shall include instruction on worker safety and health standards and practices
34 applicable to the field of employment. The State Board of Community Colleges shall make
35 appropriate regulations including the establishment of maximum hours of instruction which
36 may be offered at State expense in each in-plant training program. No instructor or other
37 employee of a community college shall engage in the normal management, supervisory and
38 operational functions of the establishment in which the instruction is offered during the hours in
39 which the instructor or other employee is employed for instructional or educational purposes.

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

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

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

48 (2) The business is deploying new technology;

49 (2a) The business or individual is creating jobs, expanding an existing workforce,
50 or enhancing the productivity and profitability of the operations within the
51 State; and

1 (3) The skills of the workers will be enhanced by the assistance.
2 (f) The State Board shall report on an annual basis to the Joint Legislative Education
3 Oversight Committee on:

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

6 (1a) The types of services sought by the company, whether for new, expanding,
7 or existing industry.

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

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

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

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

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

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

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

26 (g) The State Board shall adopt guidelines to implement this section. At least 20 days
27 before the effective date of any criteria or nontechnical amendments to guidelines, the State
28 Board must publish the proposed guidelines on the Community Colleges System Office's web
29 site and provide notice to persons who have requested notice of proposed guidelines. In
30 addition, the State Board must accept oral and written comments on the proposed guidelines
31 during the 15 business days beginning on the first day that the State Board has completed these
32 notifications. For the purpose of this subsection, a technical amendment is either of the
33 following:

34 (1) An amendment that corrects a spelling or grammatical error.

35 (2) An amendment that makes a clarification based on public comment and
36 could have been anticipated by the public notice that immediately preceded
37 the public comment. (2005-276, s. 8.4(a), (b); 2005-445, s. 3; 2008-107, s.
38 8.7(a); 2009-451, s. 8.14(c); 2009-523, s. 2(b); 2009-570, s. 41; 2010-96, s.
39 14; 2011-183, s. 79.)
40

41 **§ 115D-6. Withdrawal of State support.**

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

45 (1) The required local financial support of an institution is not provided;

46 (2) Sufficient State funds are not available;

47 (3) The officials of an institution refuse or are unable to maintain prescribed
48 standards of administration or instruction; or

49 (4) Local educational needs for such an institution cease to exist. (1963, c. 448,
50 s. 23; 1979, c. 462, s. 2; c. 896, s. 8; 1979, 2nd Sess., c. 1130, s. 1.)
51

1 **§ 115D-7. Establishment of private, nonprofit corporations.**

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

9 The board of directors of each private, nonprofit corporation shall secure and pay for the
10 services of the State Auditor's Office or employ a certified public accountant to conduct an
11 audit of the financial accounts of the corporation. The board of directors shall transmit to the
12 State Board of Community Colleges a copy of the annual financial audit report of the private
13 nonprofit corporation. (1987, c. 383, s. 1; 1999-84, s. 10.)
14

15 **§ 115D-8.** Repealed by Session Laws 1999-84, s. 4.
16

17 **§ 115D-9. Powers of State Board regarding certain fee negotiations, contracts, and capital**
18 **improvements.**

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

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

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

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

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

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

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

50 (g) The State Board shall annually report to the State Building Commission the
51 following:

- 1 (1) A list of projects governed by this section.
- 2 (2) The estimated cost of each project along with the actual cost.
- 3 (3) The name of each person awarded a contract under this section.
- 4 (4) Whether the person or business awarded a contract under this section meets
- 5 the definition of "minority business" or "minority person" as defined in G.S.
- 6 143-128.2(g).

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

11
12 **§ 115D-10. Reserved for future codification purposes.**

13
14 **§ 115D-11. Reserved for future codification purposes.**

15
16 Article 2.

17 Local Administration.

18 **§ 115D-12. Each institution to have board of trustees; selection of trustees.**

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

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

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

44 Group Three – four trustees, appointed by the Governor.

45 Group Four – the president of the student government or the chairman of the executive
46 board of the student body of each community college established pursuant to G.S. 115D shall
47 be an ex officio nonvoting member of the board of trustees of each said institution.

48 (b) All trustees shall be residents of the administrative area of the institution for which
49 they are selected or of counties contiguous thereto with the exception of members provided for
50 in G.S. 115D-12(a), Group Four.

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

4 (c) Vacancies occurring in any group for whatever reason shall be filled for the
5 remainder of the unexpired term by the agency or agencies authorized to select trustees of that
6 group and in the manner in which regular selections are made. Should the selection of a trustee
7 not be made by the agency or agencies having the authority to do so within 60 days after the
8 date on which a vacancy occurs, whether by creation or expiration of a term or for any other
9 reason, the Governor shall fill the vacancy by appointment for the remainder of the unexpired
10 term. (1963, c. 448, s. 23; 1977, c. 823, s. 104; 1979, c. 462, s. 2; 1985, c. 757, s. 147; 1987, c.
11 564, ss. 10, 12; 1987 (Reg. Sess., 1988), c. 1037, s. 111; 1991, c. 283, s. 1; 1995, c. 470, s. 1;
12 2009-549, s. 19.)
13

14 **§ 115D-13. Terms of office of trustees.**

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

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

22 All terms shall commence on July 1 of the year. (1963, c. 448, s. 23; 1977, c. 823, s. 5;
23 1979, c. 462, s. 2; 1985, c. 58; 1989, c. 521, s. 1.)
24

25 **§ 115D-14. Board of trustees a body corporate; corporate name and powers; title to 26 property.**

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

34 The several boards of trustees shall hold title to all real and personal property donated to
35 their respective institutions by private persons or purchased with funds provided by the
36 tax-levying authorities of their respective institutions. Title to equipment furnished by the State
37 shall remain in the State Board of Community Colleges. In the event that an institution shall
38 cease to operate, title to all real and personal property donated to the institution or purchased
39 with funds provided by the tax-levying authorities, except as provided for in G.S. 115D-14,
40 shall vest in the county in which the institution is located, unless the terms of the deed of gift in
41 the case of donated property provides otherwise, or unless in the case of two or more counties
42 forming a joint institution the contract provided for in G.S. 115D-71 provides otherwise. (1963,
43 c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1.)
44

45 **§ 115D-15. Sale, exchange or lease of property; use of proceeds from donated property.**

46 (a) The board of trustees of any institution organized under this Chapter may, with the
47 prior approval of the North Carolina Community Colleges System Office, convey a
48 right-of-way or easement for highway construction or for utility installations or modifications.
49 When in the opinion of the board of trustees the use of any other real property owned or held
50 by the board of trustees is unnecessary or undesirable for the purposes of the institution, the
51 board of trustees, subject to prior approval of the State Board of Community Colleges, may

1 sell, exchange, or lease the property. The board of trustees may dispose of any personal
2 property owned or held by the board of trustees without approval of the State Board of
3 Community Colleges. Personal property titled to the State Board of Community Colleges
4 consistent with G.S. 115D-14 and G.S. 115D-58.5 may be transferred to another community
5 college at no cost and without the approval of the Department of Administration, Division of
6 Surplus Property.

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

12 (b) Subject to rules adopted by the State Board, if real or personal property is donated to
13 a community college to support a specific educational purpose, the board of trustees may use
14 the proceeds from the sale or lease of the property according to the terms of the donation. The
15 board of trustees shall use the procedures authorized under Article 12 of Chapter 160A of the
16 General Statutes when selling or leasing property under this subsection. (1969, c. 338; 1979, c.
17 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1998-72, s. 1; 1998-217, s. 39; 2001-82, s.
18 1; 2011-145, s. 8.9.)
19

20 **§ 115D-15.1. Disposition, acquisition, and construction of property by community college.**

21 (a) Disposition. – Notwithstanding the provisions of G.S. 115D-14, 115D-15, and
22 160A-274, the board of trustees of a community college may, in connection with additions,
23 improvements, renovations, or repairs to all or part of its property, lease, sell, or otherwise
24 dispose of any of its property to the county in which the property is located for any price and on
25 any terms negotiated between the board of trustees of the community college and the board of
26 county commissioners.

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

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

33 (c) Acquisition and Construction. – Notwithstanding the provisions of G.S. 115D-14
34 and G.S. 115D-20(3), the board of trustees of a community college may acquire, by any lawful
35 method, any interest in real or personal property in the county in which the community college
36 is located or in its service delivery area for use by the board of trustees. The board of trustees
37 may contract for the construction, equipping, expansion, improvement, renovation, repair, or
38 otherwise making available for use by the board of trustees of the community college of all or
39 part of the property upon any terms negotiated between the board of trustees of the community
40 college and the board of county commissioners.

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

43 (e) Contract Responsibility. – A county's obligations under a financing contract entered
44 into by the county to finance improvements to real or personal property pursuant to this section
45 shall be the responsibility of the county and not the responsibility of the board of trustees of the
46 community college. (1999-115, s. 2; 2007-484, s. 29(b).)
47

48 **§ 115D-16. Elective officials serving as trustees.**

49 The office of trustee of any institution established or operated pursuant to this Chapter is
50 hereby declared to be an office which may be held by the holder of any elective office, as
51 defined in G.S. 128-1.1(d), in addition to and concurrently with those offices permitted by G.S.

1 128-1.1. Appointments made on or before July 1, 1985, by boards of county commissioners or
2 local boards of education of their own members as trustees are hereby validated, ratified, and
3 confirmed. (1979, c. 462, s. 2; 1985, c. 773.)
4

5 **§ 115D-17. Compensation of trustees.**

6 Trustees shall receive no compensation for their services but shall receive reimbursement,
7 according to regulations adopted by the State Board of Community Colleges, for cost of travel,
8 meals, and lodging while performing their official duties. The reimbursement of the trustees
9 from State funds shall not exceed the amounts permitted in G.S. 138-5. (1963, c. 448, s. 23;
10 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1.)
11

12 **§ 115D-18. Organization of boards; meetings.**

13 At the first meeting after its selection, each board of trustees shall elect from its
14 membership a chairman, who shall preside at all board meetings, and a vice-chairman, who
15 shall preside in the absence of the chairman. The trustees shall also elect a secretary, who may
16 be a trustee, to keep the minutes of all board meetings. All three officers of the board shall be
17 elected for a period of one year but shall be eligible for reelection by the board.

18 Each board of trustees shall meet as often as may be necessary for the conduct of the
19 business of the institution but shall meet at least once every three months. Meetings may be
20 called by the chairman of the board, a majority of the trustees, or the chief administrative
21 officer of the institution. (1963, c. 448, s. 23; 1979, c. 462, s. 2; 2007-197, s. 1.)
22

23 **§ 115D-19. Removal of trustees.**

24 (a) Should the State Board of Community Colleges have sufficient evidence that any
25 member of the board of trustees of an institution is not capable of discharging, or is not
26 discharging, the duties of his office as required by law or lawful regulation, or is guilty of
27 immoral or disreputable conduct, the State Board shall notify the chairman of such board of
28 trustees, unless the chairman is the offending member, in which case the other members of the
29 board shall be notified. Upon receipt of such notice there shall be a meeting of the board of
30 trustees for the purpose of investigating the charges, at that meeting a representative of the
31 State Board of Community Colleges may appear to present evidence of the charges. The
32 allegedly offending member shall be given proper and adequate notice of the meeting and the
33 findings of the other members of the board shall be recorded, along with the action taken, in the
34 minutes of the board of trustees. If the charges are, by an affirmative vote of two-thirds of the
35 members of the board, found to be true, the board of trustees shall declare the office of the
36 offending member to be vacant.

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

39 (b) A board of trustees may declare vacant the office of a member who does not attend
40 three consecutive, scheduled meetings without justifiable excuse. A board of trustees may also
41 declare vacant the office of a member who, without justifiable excuse, does not participate
42 within six months of appointment in a trustee orientation and education session sponsored by
43 the North Carolina Association of Community College Trustees. The board of trustees shall
44 notify the appropriate appointing authority of any vacancy. (1963, c. 448, s. 23; 1979, c. 462, s.
45 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1989, c. 521, s. 2; 1995, c. 470, s. 2.)
46

47 **§ 115D-20. Powers and duties of trustees.**

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

- 1 (1) To elect a president or chief administrative officer of the institution for such
2 term and under such conditions as the trustees may fix, such election to be
3 subject to the approval of the State Board of Community Colleges.
- 4 (2) To elect or employ all other personnel of the institution upon nomination by
5 the president or chief administrative officer, subject to standards established
6 by the State Board of Community Colleges. Trustees may delegate the
7 authority of employing such other personnel to its president or chief
8 administrative officer.
- 9 (3) To purchase any land, easement, or right-of-way which shall be necessary
10 for the proper operation of the institution, upon approval of the State Board
11 of Community Colleges, and if necessary, to acquire land by condemnation
12 in the same manner and under the same procedures as provided in General
13 Statutes Chapter 40A. For the purpose of condemnation, the determination
14 by the trustees as to the location and amount of land to be taken and the
15 necessity therefor shall be conclusive.
- 16 (4) To apply the standards and requirements for admission and graduation of
17 students and other standards established by the State Board of Community
18 Colleges. Notwithstanding any law or administrative rule to the contrary,
19 local community colleges are permitted to offer the following programs:
 - 20 a. Subject to the approval of the State Board of Community Colleges,
21 local community colleges may collaborate with local school
22 administrative units to offer courses through the following programs:
 - 23 1. Cooperative innovative high school programs as provided by
24 Part 9 of Article 16 of Chapter 115C of the General Statutes.
 - 25 2. Academic transition pathways for qualified junior and senior
26 high school students that lead to a career technical education
27 certificate or diploma.
 - 28 3. College transfer certificates requiring the successful
29 completion of thirty semester credit hours of transfer courses,
30 including English and mathematics, for qualified junior and
31 senior high school students.
 - 32 b. During the summer quarter, persons less than 16 years old may be
33 permitted to take noncredit courses on a self-supporting basis, subject
34 to rules of the State Board of Community Colleges.
 - 35 c. High school students may be permitted to take noncredit courses in
36 safe driving on a self-supporting basis during the academic year or
37 the summer.
- 38 (5) To receive and accept donations, gifts, devises, and the like from private
39 donors and to apply them or invest any of them and apply the proceeds for
40 purposes and upon the terms which the donor may prescribe and which are
41 consistent with the provisions of this Chapter and the regulations of the State
42 Board of Community Colleges.
- 43 (6) To provide all or part of the instructional services for the institution by
44 contracting with other public or private organizations or institutions in
45 accordance with regulations and standards adopted by the State Board of
46 Community Colleges.
- 47 (7) To perform such other acts and do such other things as may be necessary or
48 proper for the exercise of the foregoing specific powers, including the
49 adoption and enforcement of all reasonable rules, regulations, and bylaws for
50 the government and operation of the institution under this Chapter and for
51 the discipline of students.

- 1 (8) If a board of trustees of an institution provides access to its buildings and
2 campus and the student information directory to persons or groups which
3 make students aware of occupational or educational options, the board of
4 trustees shall provide access on the same basis to official recruiting
5 representatives of the military forces of the State and of the United States for
6 the purpose of informing students of educational and career opportunities
7 available in the military.
- 8 (9) To encourage the establishment of private, nonprofit corporations to support
9 the institution. The president, with approval of the board of trustees, may
10 assign employees to assist with the establishment and operation of such
11 corporation and may make available to the corporation office space,
12 equipment, supplies and other related resources; provided, the sole purpose
13 of the corporation is to support the institution. The board of directors of each
14 private, nonprofit corporation shall secure and pay for the services of the
15 State Auditor's Office or employ a certified public accountant to conduct an
16 annual audit of the financial accounts of the corporation. The board of
17 directors shall transmit to the board of trustees a copy of the annual financial
18 audit report of the private nonprofit corporation.
- 19 (10) To enter into guaranteed energy savings contracts pursuant to Part 2 of
20 Article 3B of Chapter 143 of the General Statutes.
- 21 (10a) To enter into loan agreements under the Energy Improvement Loan Program
22 pursuant to Part 3 of Article 36 of Chapter 143 of the General Statutes.
- 23 (11) To enter into lease purchase and installment purchase contracts for
24 equipment under G.S. 115D-58.15.
- 25 (12) Notwithstanding the provisions of this Chapter, a community college may
26 permit the use of its personnel or facilities, in support of or by a private
27 business enterprise located on a community college campus or in the service
28 area of a community college for the specific purposes set out in G.S.
29 66-58(c)(3a) and G.S. 66-58(c)(3d). The board of trustees of a community
30 college must specifically approve any use of facilities or personnel under
31 this subdivision. The State Board shall adopt rules to implement this
32 subdivision, G.S. 66-58(c)(3a), and G.S. 66-58(c)(3d).
- 33 (13) To enter into a public/private partnership in which all of the following
34 conditions are met:
- 35 a. The agreement is approved in advance by the State Board of
36 Community Colleges.
- 37 b. The board of trustees agrees to lease community college land to a
38 private entity on condition that the entity construct a facility on the
39 leased land.
- 40 c. The facility will be jointly owned and used by the private entity and
41 the community college.
- 42 d. The board of trustees is not authorized to lease the facility as lessee
43 under a long-term lease or capital lease from the private entity as
44 lessor.
- 45 e. The board of trustees is not authorized to finance its portion of the
46 facility by entering into an installment contract or other financing
47 contract with the private entity.
- 48 f. State bond funds shall not be used to pay for construction of that part
49 of the facility to be owned and used by the private entity.
- 50 g. The provisions of G.S. 143-341(3)a. apply to the construction of a
51 facility under this subsection.

- 1 (14) To comply with the design and construction requirements regarding energy
2 efficiency and water use in the Sustainable Energy-Efficient Buildings
3 Program under Article 8C of Chapter 143 of the General Statutes. (1963, c.
4 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1;
5 1981, c. 901, s. 2; 1983, c. 378, s. 1; c. 596, s. 1; 1985, c. 191; 1987, c. 383,
6 s. 2; 1993 (Reg. Sess., 1994), c. 775, s. 7; 1998-111, s. 1; 2001-368, s. 2;
7 2003-286, s. 1; 2005-247, s. 2; 2006-259, s. 21; 2007-476, s. 1; 2008-203, s.
8 2; 2009-119, s. 1; 2011-145, s. 7.1A(h); 2011-284, s. 82; 2011-391, s. 13(c).)

9
10 **§ 115D-20.1. Policy prohibiting tobacco use in community college buildings, grounds, and**
11 **at community college-sponsored events.**

12 (a) As used in this section:

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

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

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

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

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

43 (e) The North Carolina Tobacco Prevention and Control Branch and the Health and
44 Wellness Trust Fund Commission shall work with local community college boards of trustees
45 to provide assistance with the development and implementation of the policy including
46 providing information regarding smoking cessation and prevention resources. (2008-95, ss. 2,
47 3.)

48
49 **§ 115D-21. Traffic regulations; fines and penalties.**

50 (a) All of the provisions of Chapter 20 of the General Statutes relating to the use of
51 highways of the State of North Carolina and the operation of motor vehicles thereon shall apply

1 to the streets, roads, alleys and driveways on the campuses of all institutions in the North
2 Carolina Community College System. Any person violating any of the provisions of Chapter 20
3 of the General Statutes in or on the streets, roads, alleys and driveways on the campuses of
4 institutions in the North Carolina Community College System shall, upon conviction thereof,
5 be punished as prescribed in this section and as provided by Chapter 20 of the General Statutes
6 relating to motor vehicles. Nothing contained in this section shall be construed as in any way
7 interfering with the ownership and control of the streets, roads, alleys and driveways on the
8 campuses of institutions in the system as is now vested by law in the trustees of each individual
9 institution in the North Carolina Community College System.

10 (b) The trustees are authorized and empowered to make additional rules and regulations
11 and to adopt additional ordinances with respect to the use of the streets, roads, alleys and
12 driveways and to establish parking areas on or off the campuses not inconsistent with the
13 provisions of Chapter 20 of the General Statutes of North Carolina. Upon investigation, the
14 trustees may determine and fix speed limits on streets, roads, alleys, and driveways subject to
15 such rules, regulations, and ordinances, lower than those provided in G.S. 20-141. The trustees
16 may make reasonable provisions for the towing or removal of unattended vehicles found to be
17 in violation of rules, regulations and ordinances. All rules, regulations and ordinances adopted
18 pursuant to the authority of this section shall be recorded in the proceedings of the trustees;
19 shall be printed; and copies of such rules, regulations and ordinances shall be filed in the office
20 of the Secretary of State of North Carolina. Violation of any such rules, regulations, or
21 ordinances, is an infraction punishable by a penalty of not more than one hundred dollars
22 (\$100.00).

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

- 26 (1) If the institution operates in such a way that the person who tows the vehicle
27 is responsible for collecting towing fees, all provisions of Article 7A,
28 Chapter 20, apply.
- 29 (2) If the institution operates in such a way that it is responsible for collecting
30 towing fees, it shall:
- 31 a. Provide by contract or ordinance for a schedule of reasonable towing
32 fees,
 - 33 b. Provide a procedure for a prompt fair hearing to contest the towing,
 - 34 c. Provide for an appeal to district court from that hearing,
 - 35 d. Authorize release of the vehicle at any time after towing by the
36 posting of a bond or paying of the fees due, and
 - 37 e. If the institution chooses to enforce its authority by sale of the vehicle,
38 provide a sale procedure similar to that provided in G.S. 44A-4,
39 44A-5, and 44A-6, except that no hearing in addition to the probable
40 cause hearing is required. If no one purchases the vehicle at the sale
41 and if the value of the vehicle is less than the amount of the lien, the
42 institution may destroy it.

43 (c) The trustees may by rules, regulations, or ordinances provide for a system of
44 registration of all motor vehicles where the owner or operator does park on the campus or keeps
45 said vehicle on the campus. The trustees shall cause to be posted at appropriate places on
46 campus notice to the public of applicable parking and traffic rules, regulations, and ordinances
47 governing the campus over which it has jurisdiction. The trustees may by rules, regulations, or
48 ordinances establish or cause to have established a system of citations that may be issued to
49 owners or operators of motor vehicles who violate established rules, regulations, or ordinances.
50 The trustees shall provide for the administration of said system of citations; establish or cause
51 to be established a system of fines to be levied for the violation of established rules, regulations

1 and ordinances; and enforce or cause to be enforced the collection of said fines. The fine for
2 each offense shall not exceed five dollars (\$5.00), which funds shall be retained in the
3 institution and expended in the discretion of the trustees. The trustees shall be empowered to
4 exercise the right to prohibit repeated violators of such rules, regulations, or ordinances from
5 parking on the campus. (1971, c. 795, ss. 1-3; 1979, c. 462, s. 2; 1983, c. 420, s. 4; 1985, c.
6 764, s. 38.)

7
8 **§ 115D-21.1. Campus law enforcement agencies.**

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

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

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

27
28 **§ 115D-22. State Retirement System for Teachers and State Employees; social security.**

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

34
35 **§ 115D-23. Workers' Compensation Act applicable to institutional employees.**

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

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

47 The provisions of this section shall not apply to any person, firm or corporation making
48 voluntary contributions to institutions for any purpose, and such a person, firm, or corporation
49 shall not be liable for the payment of any sum of money under the provisions of this section.
50 (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.)

1 **§ 115D-24. Waiver of governmental immunity from liability for negligence of agents and**
2 **employees of institutions; liability insurance.**

3 The board of trustees of any institution, by obtaining liability insurance as provided in G.S.
4 115D-53, is authorized to waive its governmental immunity from liability for the death or
5 injury of person or for property damage caused by the negligence or tort of any agent or
6 employee of the board of trustees when the agent or employee is acting within the scope of his
7 authority or the course of his employment. All automobiles, buses, trucks, or other motor
8 vehicles intended primarily for use on the public roads and highways which are the property of
9 a board of trustees shall be insured at all times with liability insurance as provided in G.S.
10 115D-53. Governmental immunity shall be deemed to have been waived by the act of obtaining
11 liability insurance, but only to the extent that the board is indemnified for the negligence or
12 torts of its agents and employees and only as to claims arising after the procurement of liability
13 insurance and while such insurance is in force. (1963, c. 448, s. 23; 1979, c. 462, s. 2.)
14

15 **§ 115D-25. Purchase of annuity or retirement income contracts for employees.**

16 Notwithstanding any provision of law relating to salaries or salary schedules for the pay of
17 faculty members, administrative officers, or any other employees of community colleges, the
18 board of trustees of any of the above institutions may authorize the finance officer or agent of
19 same to enter into annual contracts with any of the above officers, agents and employees which
20 provide for reductions in salaries below the total established compensation or salary schedule
21 for a term of one year. The financial officer or agent shall use the funds derived from the
22 reduction in the salary of the officer, agent or employee to purchase a nonforfeitable annuity or
23 retirement income contract for the benefit of said officer, agent or employee. An officer, agent
24 or employee who has agreed to a salary reduction for this purpose shall not have the right to
25 receive the amount of the salary reduction in cash or in any other way except the annuity or
26 retirement income contract. Funds used for the purchase of an annuity or retirement income
27 contract shall not be in lieu of any amount earned by the officer, agent or employee before his
28 election for a salary reduction has become effective. The agreement for salary reductions
29 referred to in this section shall be effected under any necessary regulations and procedures
30 adopted by the State Board of Community Colleges and on forms prepared by the State Board
31 of Community Colleges. Notwithstanding any other provisions of this section or law, the
32 amount by which the salary of an officer, agent or employee is reduced pursuant to this section
33 shall not be excluded, but shall be included, in computing and making payroll deductions for
34 social security and retirement system purposes, and in computing and providing matching
35 funds for retirement system purposes.

36 In lieu of the annuity and related contracts provided for under this section, interests in
37 custodial accounts pursuant to Section 401(f), Section 403(b)(7), and related sections of the
38 Internal Revenue Code of 1986 as amended may be purchased for the benefit of qualified
39 employees under this section with the funds derived from the reduction in the salaries of such
40 employees. (1965, c. 366; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1987,
41 c. 564, s. 11; 1989, c. 526, s. 2.)
42

43 **§ 115D-25.1. Dependent care assistance program.**

44 The State Board of Community Colleges is authorized to provide eligible employees of
45 constituent institutions a program of dependent care assistance as available under Section 129
46 and related sections of the Internal Revenue Code of 1986, as amended. The State Board may
47 authorize constituent institutions to enter into annual agreements with employees who elect to
48 participate in the program to provide for a reduction in salary. With the approval of the Director
49 of the Budget, savings in the employer's share of contributions under the Federal Insurance
50 Contributions Act on account of the reduction in salary may be used to pay some or all of the
51 administrative expenses of the program. Should the State Board decide to contract with a third

1 party to administer the terms and conditions of a program of dependent care assistance, it may
2 select a contractor only upon a thorough and completely competitive procurement process.
3 (1989, c. 458, s. 2; 1991 (Reg. Sess., 1992), c. 1044, s. 14(c); 1993, c. 561, s. 42; 1993 (Reg.
4 Sess., 1994), c. 769, s. 7.28A; 1997-443, s. 33.20(a); 1999-237, s. 28.27(a).)

5
6 **§ 115D-25.2. Flexible Compensation Plan.**

7 Notwithstanding any other provisions of law relating to the salaries of employees of
8 community college boards of trustees, the State Board of Community Colleges is authorized to
9 provide a plan of flexible compensation to eligible employees of constituent institutions for
10 benefits available under Section 125 and related sections of the Internal Revenue Code of 1986
11 as amended. This plan shall not include those benefits provided to employees under Articles 1,
12 3, and 6 of Chapter 135 of the General Statutes nor any vacation leave, sick leave, or any other
13 leave that may be carried forward from year to year by employees as a form of deferred
14 compensation. In providing a plan of flexible compensation, the State Board may authorize
15 constituent institutions to enter into agreements with their employees for reductions in the
16 salaries of employees electing to participate in the plan of flexible compensation provided by
17 this section. With the approval of the Director of the Budget, savings in the employer's share of
18 contributions under the Federal Insurance Contributions Act on account of the reduction in
19 salary may be used to pay some or all of the administrative expenses of the program. Should
20 the State Board decide to contract with a third party to administer the terms and conditions of a
21 plan of flexible compensation as provided by this section, it may select such a contractor only
22 upon a thorough and completely advertised competitive procurement process. (1989 (Reg.
23 Sess., 1990), c. 1059, s. 2; 1991 (Reg. Sess., 1992), c. 1044, s. 14(g); 1993, c. 561, s. 42; 1993
24 (Reg. Sess., 1994), c. 769, s. 28.A; 1997-443, s. 33.20(a); 1999-237, s. 28.27(a).)

25
26 **§ 115D-25.3. Voluntary shared leave.**

27 The State Board of Community Colleges, in cooperation with the State Board of Education
28 and the State Personnel Commission, shall adopt rules and policies to allow any employee at a
29 community college to share leave voluntarily with an immediate family member who is an
30 employee of a community college, public school, or State agency; and with a coworker's
31 immediate family member who is an employee of a community college, public school, or State
32 agency. For the purposes of this section, the term "immediate family member" means a spouse,
33 parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and
34 in-law relationships. The term "coworker" means that the employee donating the leave is
35 employed by the same agency, department, institution, university, local school administrative
36 unit, or community college as the employee whose immediate family member is receiving the
37 leave. (2003-9, s. 3; 2003-284, s. 30.14A(c).)

38
39 **§ 115D-26. Conflict of interest.**

40 All local trustees and employees of community colleges covered under this Chapter are
41 subject to the conflict of interest provisions found in G.S. 14-234. (1981, c. 157, s. 5; 1987, c.
42 564, s. 9; 2001-409, s. 5.)

43
44 Article 2A.

45 Privacy of Employee Personnel Records.

46 **§ 115D-27. Personnel files not subject to inspection.**

47 Personnel files of employees of boards of trustees, former employees of boards of trustees,
48 or applicants for employment with boards of trustees shall not be subject to inspection and
49 examination as authorized by G.S. 132-6. For purposes of this Article, a personnel file consists
50 of any information gathered by the board of trustees which employs an individual, previously
51 employed an individual, or considered an individual's application for employment, and which

1 information relates to the individual's application, selection or nonselection, promotion,
2 demotion, transfer, leave, salary, suspension, performance evaluation, disciplinary action, or
3 termination of employment wherever located or in whatever form. (1991, c. 84. s. 3.)
4

5 **§ 115D-28. Certain records open to inspection.**

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

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

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

32 (c) Subject only to rules and regulations for the safekeeping of records adopted by the
33 board of trustees, every person having custody of the records shall permit them to be inspected
34 and examined and copies made by any person during regular business hours. Any person who
35 is denied access to any record for the purpose of inspecting, examining or copying the record
36 shall have a right to compel compliance with the provisions of this section by application to a
37 court of competent jurisdiction for a writ of mandamus or other appropriate relief. (1991, c. 84,
38 s. 3; 2007-508, s. 2; 2010-169, s. 18(c).)
39

40 **§ 115D-29. Confidential information in personnel files; access to information.**

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

- 44 (1) The employee, applicant for employment, former employee, or his properly
45 authorized agent, who may examine his own personnel file at all reasonable
46 times in its entirety except for letters of reference solicited prior to
47 employment;
- 48 (2) The president and other supervisory personnel;
- 49 (3) Members of the board of trustees and the board's attorney;

- 1 (4) A party by authority of a subpoena or proper court order may inspect and
2 examine a particular confidential portion of an employee's personnel file;
3 and
4 (5) An official of an agency of the federal government, State government or any
5 political subdivision thereof. Such an official may inspect any personnel
6 records when such [an] inspection is deemed by the college of the employee,
7 applicant, or former employee whose record is to be inspected as necessary
8 and essential to the pursuance of a proper function of said agency; provided,
9 however, that such information shall not be divulged for purposes of
10 assisting in a criminal prosecution, nor for purposes of assisting in a tax
11 investigation.

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

26 (c) Notwithstanding any provision of this section to the contrary, the Retirement
27 Systems Division of the Department of State Treasurer may disclose the name and mailing
28 address of former community college employees to domiciled, nonprofit organizations
29 representing 2,000 or more active or retired State government, local government, or public
30 school employees. (1991, c. 84, s. 3; 2008-194, s. 11(c).)

31
32 **§ 115D-30. Remedy of employee objecting to material in file.**

33 An employee, former employee or applicant for employment who objects to material in his
34 file may place in his file a statement relating to the materials he considers to be inaccurate or
35 misleading. An employee, former employee or applicant for employment who objects to
36 material in his file because he considers it inaccurate or misleading, and the material has not
37 been placed there in connection with a grievance procedure established by the board of trustees,
38 may seek the removal of such material from the file through grievance procedures to be
39 established by each board of trustees. (1991, c. 84. s. 3.)
40

41 Article 3.

42 Financial Support.

43 **§ 115D-31. State financial support of institutions.**

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

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

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

17 (2) Current Operating Expenses:

- 18 a. General administration. – Salaries and other costs as determined by
19 the State Board necessary to carry out the functions of general
20 administration.
21 b. Instructional services. – Salaries and other costs as determined by the
22 State Board necessary to carry out the functions of instructional
23 services.
24 c. Support services. – Salaries and other costs as determined by the
25 State Board necessary to carry out the functions of support services.

26 (3) Additional Support for Regional Institutions as Defined in G.S. 115D-2(4). –
27 Matching funds to be used with local funds to meet the financial needs of the
28 regional institutions for the items set out in G.S. 115D-32(a)(2)a. Amount of
29 matching funds to be provided by the State under this section shall be
30 determined as follows: The population of the administrative area in which
31 the regional institution is located shall be called the "local factor," the
32 combined populations of all other counties served by the institution shall be
33 called the "State factor." When the budget for the items listed in G.S.
34 115D-32(a)(2)a has been approved under the procedures set out in G.S.
35 115D-45, the administrative area in which the regional institution is located
36 shall provide a percentage to be determined by dividing the local factor by
37 the sum of the local factor and the State factor. The State shall provide a
38 percentage of the necessary funds to meet this budget, the percentage to be
39 determined by dividing the State factor by the sum of the local factor and the
40 State factor. If the local administrative area provides less than its
41 proportionate share, the amount of State funds provided shall be reduced by
42 the same proportion as were the administrative area funds.

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

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

50 (b1) A local community college may use all State funds allocated to it, except for
51 Literacy funds and Customized Training funds, for any authorized purpose that is consistent

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

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

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

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

19 (e) If receipts for community college tuition and fees exceed the amount certified in
20 General Fund Codes at the end of a fiscal year, the State Board of Community Colleges shall
21 transfer the amount of receipts and fees above those budgeted to the Enrollment Growth
22 Reserve. Funds in the Enrollment Growth Reserve shall not revert to the General Fund and
23 shall remain available to the State Board until expended. The State Board may allocate funds in
24 this reserve to colleges experiencing an enrollment increase greater than five percent (5%) of
25 budgeted enrollment levels. (1963, c. 448, s. 23; 1973, c. 590, ss. 2, 3; c. 637, s. 1; 1979, c.
26 462, s. 2; c. 896, s. 13; c. 946, s. 1; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 157, s. 2; 1985, c.
27 757, s. 146; 1987, c. 564, ss. 9, 12; 1995, c. 324, s. 16; 1998-212, s. 10.2(a); 1999-84, s. 11;
28 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;
29 2011-145, s. 8.4.)
30

31 **§ 115D-31.1. Liability insurance.**

32 Notwithstanding the provisions of G.S. 115D-32(a)(2)b2 and any other provision of the law
33 to the contrary, boards of trustees of all institutions in this Chapter may use State funds to pay
34 the lawful premiums of liability insurance as provided in this section. (1983, c. 761, s. 105.)
35

36 **§ 115D-31.2. Maintenance of plant.**

37 Notwithstanding any provisions of law to the contrary, any community college that has an
38 out-of-county student head count served on the main campus of the college in excess of fifty
39 percent (50%) of the total student head count as defined by the State Board of Community
40 Colleges, shall be provided funds for the purpose of "operations of plant". Each college that
41 qualifies for these funds shall receive a pro rata amount of the funds that are appropriated for
42 this purpose. (1993, c. 321, s. 110; 2001-424, s. 30.13.)
43

44 **§ 115D-31.3. Institutional performance accountability.**

45 (a) Creation of Accountability Measures and Performance Standards. – The State Board
46 of Community Colleges shall create new accountability measures and performance standards
47 for the Community College System. Survey results shall be used as a performance standard
48 only if the survey is statistically valid. The State Board of Community Colleges shall review
49 annually the accountability measures and performance standards to ensure that they are
50 appropriate for use in recognition of successful institutional performance.

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

1 (e) Mandatory Performance Standards. – The State Board of Community Colleges shall
2 evaluate each college on the following eight performance standards:

- 3 (1) Progress of basic skills students,
- 4 (2) Passing rate for licensure and certification examinations,
- 5 (3) Performance of students who transfer to a four-year institution,
- 6 (4) Passing rates in developmental courses,
- 7 (5) Success rates of developmental students in subsequent college-level courses,
- 8 (6) The level of satisfaction of students who complete programs and those who
9 do not complete programs,
- 10 (7) Curriculum student retention and graduation, and
- 11 (8) Client satisfaction with customized training.

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

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

16 The Community Colleges System Office shall publish the performance of all colleges on all
17 eight standards.

18 (g) Recognition for Successful Institutional Performance. – For the purpose of
19 recognition for successful institutional performance, the State Board of Community Colleges
20 shall evaluate each college on the eight performance standards. For each of these eight
21 performance standards on which a college performs successfully, the college may retain and
22 carry forward into the next fiscal year one-fourth of one percent ($\frac{1}{4}$ of 1%) of its final fiscal
23 year General Fund appropriations. If a college demonstrates significant improvement on a
24 standard that has been in use for three years or less, the college may also carry forward
25 one-fourth of one percent ($\frac{1}{4}$ of 1%) of its final fiscal year General Fund appropriations for that
26 standard.

27 (h) Recognition for Exceptional Institutional Performance. – Funds not allocated to
28 colleges in accordance with subsection (g) of this section shall be used to reward exceptional
29 institutional performance. After all State aid budget obligations have been met, the State Board
30 of Community Colleges shall distribute the remainder of these funds equally to colleges that
31 perform successfully on eight performance standards and meet the following criteria:

- 32 (1) The passing rate on all reported licensure and certification examinations for
33 which the community colleges have authority over who sits for the
34 examination must meet or exceed seventy percent (70%) for first-time test
35 takers; and
- 36 (2) The percentage of college transfer students with a grade point average of at
37 least 2.0 after two semesters at a four-year institution must equal or exceed
38 the performance of students who began college at that four-year institution.

39 The State Board may withhold the portion of funds for which a college may qualify as an
40 exceptional institution while the college is under investigation by a State or federal agency or if
41 its performance does not meet the standards established by the Southern Association of
42 Colleges and Schools, the State Auditor's Office, or the State Board of Community Colleges.
43 The State Board may release the funds at such time as the investigations are complete and the
44 issues are resolved.

45 (i) Permissible Uses of Funds. – Funds retained by colleges or distributed to colleges
46 pursuant to this section shall be used for the purchase of equipment, initial program start-up
47 costs including faculty salaries for the first year of a program, and one-time faculty and staff
48 bonuses. These funds shall not be used for continuing salary increases or for other obligations
49 beyond the fiscal year into which they were carried forward. These funds shall be encumbered
50 within 12 months of the fiscal year into which they were carried forward.

1 (j) Use of funds in low-wealth counties. – Funds retained by colleges or distributed to
2 colleges pursuant to this section may be used to supplement local funding for maintenance of
3 plant if the college does not receive maintenance of plant funds pursuant to G.S. 115D-31.2,
4 and if the county in which the main campus of the community college is located meets all of
5 the following:

- 6 (1) Is designated as a Tier 1 county in accordance with G.S. 143B-437.08.
- 7 (2) Had an unemployment rate of at least two percent (2%) above the State
8 average or greater than seven percent (7%), whichever is higher, in the prior
9 calendar year.
- 10 (3) Is a county whose wealth, as calculated under the formula for distributing
11 supplemental funding for schools in low-wealth counties, is eighty percent
12 (80%) or less of the State average.

13 Funds may be used for this purpose only after all local funds appropriated for maintenance of
14 plant have been expended. (1999-237, s. 9.2(a); 2000-67, s. 9.7; 2001-186, s. 1; 2006-66, s.
15 8.9(a); 2007-230, s. 1; 2007-484, s. 29.5(a); 2007-527, s. 19.)
16

17 **§ 115D-32. Local financial support of institutions.**

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

- 21 (1) Plant Fund: Acquisition of land; erection of all buildings; alterations and
22 additions to buildings; purchase of automobiles, buses, trucks, and other
23 motor vehicles; purchase or rental of all equipment necessary for the
24 maintenance of buildings and grounds and operation of plants; and purchase
25 of all furniture and equipment not provided for administrative and
26 instructional purposes.
- 27 (2) Current expenses:
 - 28 a. Plant operation and maintenance:
 - 29 1. Salaries of janitors, maids, watchmen, maintenance and repair
30 employees.
 - 31 2. Cost of fuel, water, power, and telephone services.
 - 32 3. Cost of janitorial supplies and materials.
 - 33 4. Cost of operation of motor vehicles.
 - 34 5. Cost of maintenance and repairs of buildings and grounds.
 - 35 6. Maintenance and replacement of furniture and equipment
36 provided from local funds.
 - 37 7. Maintenance of plant heating, electrical, and plumbing
38 equipment.
 - 39 8. Maintenance of all other equipment, including motor
40 vehicles, provided by local funds.
 - 41 9. Rental of land and buildings.
 - 42 10. Any other expenses necessary for plant operation and
43 maintenance.
 - 44 b. Support services:
 - 45 1. Cost of insurance for buildings, contents, motor vehicles,
46 workers' compensation for institutional employees paid from
47 local funds, and other necessary insurance.
 - 48 2. Any tort claims awarded against the institution due to the
49 negligence of the institutional employees.
 - 50 3. Cost of bonding institutional employees for the protection of
51 local funds and property.

- 1 4. Cost of elections held in accordance with G.S. 115D-33 and
2 115D-35.
3 5. Legal fees incurred in connection with local administration
4 and operation of the institution.

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

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

12 (d) The counties that agree to have satellite campuses of community colleges located in
13 them accept the maintenance and utility costs of these satellite campuses. (1963, c. 448, s. 23;
14 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.
15 64; 1999-84, s. 5.)
16

17 **§ 115D-33. Providing local public funds for institutions established under this Chapter;**
18 **elections.**

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

- 21 (1) By appropriations from nontax revenues in a manner consistent with the
22 Local Government Budget and Fiscal Control Act, provided the continuing
23 authority to make such appropriations shall have been approved by a
24 majority of the qualified voters of the administrative area who shall vote on
25 the question in an election held for such purpose, or
26 (2) By a special annual levy of taxes within a maximum annual rate which
27 maximum rate shall have been approved by a majority of the qualified voters
28 of the administrative area who shall vote on the question of establishing or
29 increasing the maximum annual rate in an election held for such purpose or
30 both, and
31 (3) By issuance of bonds, in the case of capital outlay funds, provided that each
32 issuance of bonds shall be approved by a majority of the qualified voters of
33 each county of the administrative area who shall vote on the question in an
34 election held for that purpose. All bonds shall be subject to the Local
35 Government Finance Act (Chapter 159) and shall be issued pursuant to
36 Subchapter IV, Long-Term Financing, (§ 159-43 et seq.) of Chapter 159 of
37 the General Statutes.

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

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

4 (d) All elections shall be held in the same manner as elections held under Article 4,
5 Chapter 159, of the General Statutes, the Local Government Bond Act, and may be held at any
6 time fixed by the tax-levying authority of the administrative area or proposed administrative
7 area of the institution for which such election is to be held.

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

12 (f) Notwithstanding any present provisions of this Chapter, the tax-levying authority of
13 each institution may at its discretion and upon its own motion provide by appropriations of
14 nontax revenue, tax revenue, or both, funds for the support of institutional purposes as set forth
15 in G.S. 115D-32; but nothing herein shall be construed to authorize the issuance of bonds
16 without a vote of the people. (1963, c. 448, s. 23; 1971, c. 402; 1979, c. 462, s. 2; c. 896, s. 13;
17 1979, 2nd Sess., c. 1130, s. 1; 1983, c. 717, s. 27.3.)
18

19 **§ 115D-34. Providing local public funds for institutions previously established.**
20

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

25 (1) Community colleges: The board of commissioners of a county in which is
26 located a public community college heretofore operated or authorized to
27 operate pursuant to Article 3, Chapter 116, of the General Statutes of North
28 Carolina, may continue to levy special taxes annually for the local financial
29 support of the institution as a community college as provided in G.S.
30 115D-32, to the maximum rate last approved by the voters of the county in
31 accordance with the above Article. The board of commissioners may also
32 provide all or part of such funds by appropriations, in a manner consistent
33 with the Local Government Budget and Fiscal Control Act, from nontax
34 revenues. The question of increasing the maximum annual rate of a special
35 tax may be submitted at an election held in accordance with the provisions
36 of G.S. 115D-33(d) and the appropriate provisions of G.S. 115D-35.

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

50 (b) The board of commissioners of a county in which is located one of the above public
51 community colleges or industrial education centers may provide funds for capital outlay for

1 such institution by the issuance of bonds. All bonds shall be issued in accordance with the
2 appropriate provisions of G.S. 115D-33 and 115D-35.

3 (c) Public funds provided a community college or industrial education center prior to its
4 becoming subject to the provisions of this Chapter and which remain to the credit of the
5 institution upon its becoming subject to these provisions shall be expended only for the
6 purposes prescribed by law when such funds were provided the institution. (1963, c. 448, s. 23;
7 1965, c. 842, s. 1; 1979, c. 462, s. 2; 1987, c. 564, ss. 20, 34.)
8

9 **§ 115D-35. Requests for elections to provide funds for institutions.**

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

14 (1) Proposed multiple-county administrative areas: Formal requests for elections
15 may be submitted jointly by all county boards of education in the proposed
16 administrative area, or by petition of fifteen percent (15%) of the number of
17 qualified voters of the proposed area who voted in the last preceding election
18 for Governor, to the boards of commissioners of all counties in the proposed
19 area, who may fix the time for such election by joint resolution which shall
20 be entered in the minutes of each board.

21 (2) Proposed single-county administrative area: Formal requests shall be
22 submitted by the board of education of any public school administrative unit
23 within the county of the proposed administrative area or by petition of
24 fifteen percent (15%) of the number of qualified voters of the county who
25 voted in the last preceding election for Governor, to the board of
26 commissioners of the county of the proposed administrative area, who may
27 fix the time for such election by resolution which shall be entered in the
28 minutes of the board.

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

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

35 (d) Nothing in this section shall be construed to deny or limit the power of the
36 tax-levying authority of an institution to hold elections, of its own motion, on any or all the
37 questions provided in this section, subject to the provisions of this Article. (1963, c. 448, s. 23;
38 1979, c. 462, s. 2.)
39

40 **§ 115D-36. Elections on question of the addition of a college transfer program at an**
41 **institution and issuance of bonds therefor.**
42

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

46 (1) The authorization by the voters of the administrative area of an annual levy
47 of taxes within a specified maximum annual rate sufficient to provide the
48 required local financial support for the institution after the addition of the
49 college transfer program, in an election held in accordance with the
50 appropriate provisions of G.S. 115D-33 and 115D-35.

- 1 (2) The approval by the voters of the administrative area of the issuance of
2 bonds for capital outlay necessary for the institution after the addition of the
3 college transfer program, in an election held in accordance with the
4 appropriate provisions of G.S. 115D-33 and 115D-35. (1968, c. 443, s. 23;
5 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1987, c. 564,
6 s. 5.)
7

8 **§ 115D-37. Payment of expenses of special elections under Chapter.**

9 The cost of special elections held under the authority of this Chapter in connection with the
10 establishment of an institution shall be paid out of the general fund of the county or counties
11 which shall conduct such elections. All special elections held on behalf of a duly established
12 institution shall be paid by such institution and the expenses may be included in the annual
13 institutional budgets. (1963, c. 448, s. 23; 1979, c. 462, s. 2.)
14

15 **§ 115D-38. Authority to issue bonds and notes, to levy taxes and to appropriate nontax**
16 **revenues.**

17 Counties are authorized to issue bonds and notes and to levy special taxes to meet payments
18 of principal and interest on such bonds or notes and to levy special taxes for the special purpose
19 of providing local financial support of an institution and otherwise to appropriate nontax
20 revenues for the financial support of an institution, in the manner and for the purposes provided
21 in this Chapter.

22 Taxes authorized by this section are declared to be for a special purpose and may be levied
23 notwithstanding any constitutional limitation or limitations imposed by any general or special
24 law. (1963, c. 448, s. 23; 1979, c. 462, s. 2.)
25

26 **§ 115D-39. Student tuition and fees.**

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

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

32 The legal resident limitation with respect to tuition, set forth in G.S. 116-143.1 and G.S.
33 116-143.3, shall apply to students attending institutions operating pursuant to this Chapter;
34 provided, however, that when an employer other than the Armed Forces, as that term is defined
35 in G.S. 116-143.3, pays tuition for an employee to attend an institution operating pursuant to
36 this Chapter and when the employee works at a North Carolina business location, the employer
37 shall be charged the in-State tuition rate; provided further, however, a community college may
38 charge in-State tuition to up to one percent (1%) of its out-of-state students, rounded up to the
39 next whole number, to accommodate the families transferred by business, the families
40 transferred by industry, or the civilian families transferred by the Armed Forces, consistent
41 with the provisions of G.S. 116-143.3, into the State. Notwithstanding these requirements, a
42 refugee who lawfully entered the United States and who is living in this State shall be deemed
43 to qualify as a domiciliary of this State under G.S. 116-143.1(a)(1) and as a State resident for
44 community college tuition purposes as defined in G.S. 116-143.1(a)(2). Also, a nonresident of
45 the United States who has resided in North Carolina for a 12-month qualifying period and has
46 filed an immigrant petition with the United States Immigration and Naturalization Service shall
47 be considered a State resident for community college tuition purposes.

48 (a1) In addition, federal law enforcement officers, firefighters, EMS personnel, and
49 rescue and lifesaving personnel whose permanent duty station is within North Carolina shall
50 also be eligible for the State resident community college tuition rate for courses that support

1 their organizations' training needs and are approved for this purpose by the State Board of
2 Community Colleges.

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

8 (c) In addition, a person sponsored under this subsection who is lawfully admitted to
9 the United States is eligible for the State resident community college tuition rate. For purposes
10 of this subsection, a North Carolina nonprofit entity is a charitable or religious corporation as
11 defined in G.S. 55A-1-40 that is incorporated in North Carolina and that is exempt from
12 taxation under section 501(c)(3) of the Internal Revenue Code, or a civic league incorporated in
13 North Carolina under Chapter 55A of the General Statutes that is exempt from taxation under
14 section 501(c)(4) of the Internal Revenue Code. A nonresident of the United States is
15 sponsored by a North Carolina nonprofit entity if the student resides in North Carolina while
16 attending the community college and the North Carolina nonprofit entity provides a signed
17 affidavit to the community college verifying that the entity accepts financial responsibility for
18 the student's tuition and any other required educational fees. Any North Carolina nonprofit
19 entity that sponsors a nonresident of the United States under this subsection may sponsor no
20 more than five nonresident students annually under this subsection. This subsection does not
21 make a person a resident of North Carolina for any other purpose.

22 (d) A community college may add the cost of textbooks purchased at the college's
23 bookstore to the tuition rates established pursuant to subsection (a) of this section for all
24 purposes associated with billing the armed services for the enrollment of members of the armed
25 services, as defined in G.S. 116-143.3, if the student's branch of the armed services permits the
26 addition of textbooks to tuition costs in its tuition assistance program. The college may retain
27 the funds attributable to the cost of the textbooks. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c.
28 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 157, s. 4; 1983 (Reg. Sess., 1984), c. 1034, s.
29 58; 1989, c. 752, s. 85; 1991 (Reg. Sess., 1992), c. 1044, s. 25(a); 1993, c. 561, s. 50(a); 1996,
30 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.
31 8.4(b); 2011-145, s. 8.12(d); 2011-183, s. 80; 2011-184, s. 1.)
32

33 **§ 115D-39.1. Tuition surcharge.**

34 (a) Notwithstanding the provisions of G.S. 115D-39.1(a), a community college may,
35 with the approval of the State Board of Community Colleges:

- 36 (1) Implement a tuition surcharge of up to thirty-three and one-third percent (33
37 1/3%) of the statewide tuition rate to fund a new instructional program that
38 is necessary to attract industry to the area, and
- 39 (2) Use the proceeds of an endowed scholarship, consistent with the terms of the
40 endowment, to offset the cost of the tuition charge.

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

45 (c) This section applies only to an endowed scholarship in excess of five million dollars
46 (\$5,000,000).

47 (d) The State Board shall adopt rules to implement this section. (2007-367, s. 1.)
48

49 **§ 115D-40.** Repealed by Session Laws 1999-237, s.9.4(c).

50
51 **§ 115D-40.1. Financial Assistance for Community College Students.**

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

6 (b) Targeted Assistance. – Notwithstanding subsection (a) of this section, the State
7 Board may allocate no more than ten percent (10%) of the funds appropriated for Financial
8 Assistance for Community College Students to:

9 (1) Students who do not qualify for need-based assistance but who enroll in
10 low-enrollment programs that prepare students for high-demand
11 occupations, and

12 (2) Students with disabilities who have been referred by the Division of
13 Vocational Rehabilitation and are enrolled in a community college.

14 (c) Administration of Program. – The State Board shall adopt rules and policies for the
15 disbursement of the financial assistance provided in subsections (a) and (b) of this section.
16 Degree, diploma, and certificate students must complete a Free Application for Federal Student
17 Aid (FAFSA) to be eligible for financial assistance. The State Board may contract with the
18 State Education Assistance Authority for administration of these financial assistance funds.
19 These funds shall not revert at the end of each fiscal year but shall remain available until
20 expended for need-based financial assistance. The interest earned on the funds provided in
21 subsections (a) and (b) of this section may be used to support the costs of administering the
22 Community College Grant Program.

23 (d) Participation in Federal Loan Programs. – All community colleges shall participate
24 in the William D. Ford Federal Direct Loan Program. The State Board shall ensure that at least
25 one counselor is available at each college to inform students about federal programs and funds
26 available to assist community college students, including, but not limited to, Pell Grants, HOPE
27 and Lifetime Learning Tax Credits, and the William D. Ford Federal Direct Loan Program, and
28 to actively encourage students to utilize these federal programs and funds.

29 (e) Exception to Participation in Federal Loan Programs. – Notwithstanding subsection
30 (d) of this section, the board of trustees of a college may adopt a resolution declining to
31 participate in the William D. Ford Federal Direct Loan Program. The board of trustees of any
32 college that has declined to participate in the William D. Ford Federal Direct Loan Program
33 through the adoption of a resolution may rescind the resolution and participate in the Program
34 but shall not have the authority to again decline participation in the Program.

35 This subsection applies only to Alamance Community College, Beaufort County
36 Community College, Brunswick Community College, Caldwell Community College and
37 Technical Institute, Central Carolina Community College, Central Piedmont Community
38 College, Cleveland Community College, Gaston College, James Sprunt Community College,
39 Lenoir Community College, Martin Community College, Mitchell Community College,
40 Montgomery Community College, Pamlico Community College, Randolph Community
41 College, Richmond Community College, Robeson Community College, Rockingham
42 Community College, Rowan-Cabarrus Community College, Sandhills Community College, and
43 Stanly Community College, Surry Community College, and Sampson Community College,
44 South Piedmont Community College, and Vance-Granville Community College, Wilkes
45 Community College. (1999-237, s. 9.4(a), (b); 2001-229, ss. 1, 2; 2003-52, s. 1; 2003-385, s. 1;
46 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;
47 2011-178, ss. 1, 2.)

48
49 **§ 115D-41. Restrictions on contracts with local school administrative units; use of**
50 **community college facilities by public school students pursuant to cooperative**
51 **programs.**

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

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

13 For the purpose of establishing Use and Occupancy Classifications, these programs shall be
14 considered "Business – Group B" in the same manner as other community college uses. (1991
15 (Reg. Sess., 1992), c. 900, s. 82(a); 2006-66, s. 8.11(a); 2006-221, s. 5; 2009-206, s. 1;
16 2011-145, s. 7.1A(g).)

17
18 **§ 115D-42. North Carolina Community Colleges Instructional Trust Fund.**

19 (a) There is established the North Carolina Community Colleges Instructional Trust
20 Fund. The purpose of this Trust Fund is to supplement the funds raised by community college
21 foundations to enhance the academic missions of community colleges.

22 (b) The State Board of Community Colleges is authorized to allocate funds from the
23 Instructional Trust Fund to the community colleges and to adopt rules to implement the
24 provisions of this section.

25 (c) State funds from the Trust Fund and matching funds raised by foundations shall be
26 used by the board of trustees of a community college only to enhance the academic mission of
27 the college. State funds shall be used only for scholarships or financial aid for needy students.

28 Expenditures of the matching funds raised by foundations shall directly relate to education
29 and shall be used only for:

- 30 (1) Resource center materials;
- 31 (2) Professional development of instructional faculty and staff in cases in which
32 (i) professional development will improve the quality of performance
33 provided by the employee and (ii) the employee makes a commitment to
34 remain at the college for a prescribed period of time;
- 35 (3) Professional development of instructional faculty and staff in cases in which
36 professional development is necessary to enhance the employee's ability to
37 meet newly mandated instructional or performance requirements; and
- 38 (4) Other purposes authorized by the State Board of Community Colleges that
39 are consistent with the college's mission.

40 (d) Every two dollars (\$2.00) raised by the community college foundations for the Trust
41 Fund during the 2003-2004 fiscal year shall be matched with one dollar (\$1.00) of State funds.
42 The maximum matching contribution from the State shall not exceed twenty-five thousand
43 dollars (\$25,000) for each of the 58 community colleges. These funds shall be reserved for each
44 community college and held in escrow in the Trust Fund. A community college foundation may
45 apply for matching funds after it raises twenty-five thousand dollars (\$25,000). The chairperson
46 of each community college foundation shall certify to the North Carolina Community College
47 System Office that (i) new funds have been raised by the community college foundation to
48 match the amount of funds held in escrow in the Trust Fund, (ii) the amount raised by the
49 community college foundation has not been used previously for matching purposes, (iii) the
50 amount raised by the college shall be used only as provided in subsection (c) of this section,

1 and (iv) matching State funds shall be used only for scholarships or financial aid for needy
2 students.

3 (e) The State Board of Community Colleges may request an audit of the State funds
4 expended under this section from any community college foundation. (2003-284, s. 8.14(a).)

5
6 **§ 115D-43. Funds for an intercollegiate athletics program.**

7 No State funds, student tuition receipts, or student aid funds shall be used to create, support,
8 maintain, or operate an intercollegiate athletics program at a community college. (2011-145, s.
9 8.10.)

10
11 **§ 115D-44 Reserved for future codification purposes.**

12
13 Article 4.

14 Budgeting, Accounting, and Fiscal Management.

15 **§§ 115D-45 through 115D-53. Recodified as §§ 115D-54 to 115D-58.12.**

16
17 Article 4A.

18 Budgeting, Accounting, and Fiscal Management.

19 **§ 115D-54. Preparation and submission of institutional budget.**

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

- 26 (1) State Current Fund.
27 (2) County Current Fund.
28 (3) Institutional Fund.
29 (4) Plant Fund.

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

- 32 (1) State Current Fund Budget. – The budget request shall contain the items of
33 current operating expenses as provided in G.S. 115D-31 for which State
34 funds are requested. The approving authority for the State current fund
35 budget request shall be the board of trustees and the State Board of
36 Community Colleges.
37 (2) County Current Fund Budget. – The budget request shall contain the items
38 of current operating expenses, as provided in G.S. 115D-32, for which
39 county funds are requested. The approving authority for the county current
40 fund budget request shall be the board of trustees and the local tax-levying
41 authority. The State Board of Community Colleges shall have approving
42 authority pursuant to G.S. 115D-33 with respect to required local funding.
43 (3) Institutional Fund Budget. – The budget request shall contain the items of
44 current operating expenses, loan funds, scholarship funds, auxiliary
45 enterprises, State, private, and federal grants and contracts and endowment
46 funds for which institutional funds are requested. The approving authority
47 for the institutional fund budget request shall be the board of trustees of the
48 institution.
49 (4) Plant Fund Budget. – The budget request shall contain the items of capital
50 outlay, as provided in G.S. 115D-31 and 115D-32, for which funds are
51 requested, from whatever source. The board of trustees shall submit the

1 budget to the local tax-levying authority. The local tax-levying authority
2 shall approve or disapprove, in whole or in part, that portion of the budget
3 requesting local public funds. After approval by the local tax-levying
4 authority, the board of trustees shall submit the budget to the State Board of
5 Community Colleges on a date designated by the State Board. The State
6 Board may approve or disapprove, in whole or in part, that portion of the
7 budget requesting State or federal funds. Plant funds provided for
8 construction and major renovations shall be permanent appropriations until
9 the conclusion of the project for which appropriated.

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

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

17 (e) "Trust and Agency Fund" means funds held by an institution as custodian or fiscal
18 agent for others such as student organizations, individual students, or faculty members. Trust
19 and agency funds need not be budgeted. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13;
20 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 157, s. 1; 2001-112, s. 1; 2007-484, s. 29(c).)

21
22 **§ 115D-55. Budget management.**

23 (a) Approval of Budget by Local Tax-Levying Authority. – By a date fixed by the local
24 tax-levying authority, the budget shall be submitted to the local tax-levying authority for
25 approval of that portion within its authority as stated in G.S. 115D-54(b). On or before July 1,
26 or such later date as may be agreeable to the board of trustees, but in no instance later than
27 September 1, the local tax-levying authority shall determine the amount of county revenue to
28 be appropriated to an institution for the budget year. The local tax-levying authority may
29 allocate part or all of an appropriation by purpose, function, or project as defined in the budget
30 manual as adopted by the State Board of Community Colleges.

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

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

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

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

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

1
2 **§ 115D-56. Final adoption of budget.**

3 Upon notification of approval by the State Board of Community Colleges, the board of
4 trustees shall adopt a budget resolution as defined in the budget manual as adopted by the State
5 Board of Community Colleges, which shall comply with the resolution of the State Board and
6 the appropriations of the tax-levying authorities and all other funding agencies. (1981, c. 157,
7 s. 1.)
8

9 **§ 115D-57. Interim budget.**

10 In case the adoption of the budget resolution is delayed until after July 1, the board of
11 trustees shall authorize the president, through interim provisions, to pay salaries and the other
12 ordinary expenses of the institution for the interval between the beginning of the fiscal year and
13 the adoption of the budget resolution. Interim provisions so made shall be charged to the proper
14 allocations in the budget resolution. (1981, c. 157, s. 1.)
15

16 **§ 115D-58. Amendments to the budget; budget transfers.**

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

20 (b) If the local tax-levying authority allocates part or all of an appropriation pursuant to
21 G.S. 115D-55, the board of trustees must obtain approval of the local tax-levying authority for
22 an amendment to the budget which increases or decreases the amount of that appropriation
23 allocated to a purpose, function, or project by twenty-five percent (25%) or more from the
24 amount contained in the budget ordinance adopted by the local tax-levying authority or such
25 lesser percentage as specified by the local tax-levying authority in the original budget
26 ordinance, so long as such percentage is not less than ten percent (10%).

27 (c) The board of trustees may, by appropriate resolution, authorize the president to
28 transfer moneys from one appropriation to another within the same fund, subject to any
29 limitations established by regulations adopted pursuant to this section, and subject to any
30 limitations and procedures prescribed by the board of trustees or State for federal laws or
31 regulations. Any such transfer shall be reported to the board of trustees at its next regular
32 meeting and entered into its minutes. (1981, c. 157, s. 1.)
33

34 **§ 115D-58.1. Federal contracts and grants.**

35 The board of trustees of any institution may apply for and accept grants from the federal
36 government or any agency thereof, in order to carry out the institution's mission. In exercising
37 this authority, the board of trustees may enter into and carry out contracts with the federal
38 government or any agency thereof, may agree to and comply with any lawful and reasonable
39 condition attached to such a grant including, in the case of a grant from the Economic
40 Development Administration, the granting of a security interest to the Economic Development
41 Administration in any real property or equipment purchased with the grant, limiting the sale or
42 use of the real property or equipment as prescribed by regulations of the Economic
43 Development Administration, and may make expenditures from any funds so granted. The
44 State Board of Community Colleges shall adopt rules and regulations governing the application
45 for and the acceptance of grants under this section. (1981, c. 157, s. 1; 2001-211, s. 1.)
46

47 **§ 115D-58.2. Allocation of revenue to the institution by the local tax-levying authority.**

48 (a) The local tax-levying authority of each institution shall provide, as needed, funds to
49 meet the monthly expenditures, including salaries and other necessary operating expenses, as
50 set forth in a statement prepared by the board of trustees and in accordance with the approved
51 budget. Upon the basis of the approved budget, the county finance officer shall make available

1 to the institution the moneys requested by the board of trustees no later than the fifteenth day of
2 the month for which funds are requested.

3 (b) Funds received by the trustees of an institution from insurance payments for loss or
4 damage to buildings shall be used for the repair or replacement of such buildings, or, if the
5 buildings are not repaired or replaced, to reduce proportionally the institutional indebtedness
6 borne by the counties of the administrative area of the institution receiving the insurance
7 payments. If such payments, which are not used to repair or replace institutional buildings,
8 exceed the total institutional indebtedness borne by all counties of the administrative area, such
9 excess funds shall remain to the credit of the institution and shall be applied to the next
10 succeeding plant fund budget until the excess funds shall be expended. Funds received by the
11 trustees of an institution for loss or damage to the contents of buildings shall be divided
12 between the board of trustees and the State Board of Community Colleges in proportion to the
13 value of the lost contents owned by the board of trustees and the State, respectively. Until these
14 funds shall have been expended, they shall either be used for repair or replacement of lost
15 contents or be credited to the institution for succeeding plant and current expense budgets as
16 appropriate. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1;
17 1981, c. 157, s. 1.)
18

19 **§ 115D-58.3. Provision for disbursement of State money.**

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

25 The Community Colleges System Office shall determine whether the moneys requisitioned
26 are due the institution, and upon determining the amount due, shall cause the requisite amount
27 to be credited to the institution. Upon receiving notice from the Community Colleges System
28 Office that the amount has been placed to the credit of the institution, the institution may issue
29 State warrants up to the amount so certified. Money in the State Current Fund and other
30 moneys made available by the State Board of Community Colleges shall be released only on
31 warrants drawn on the State Treasurer, signed by two officials of the institution designated for
32 this purpose by the board of trustees. (1963, c. 448, s. 23; 1965, c. 448, s. 2; 1979, c. 462, s. 2;
33 c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 157, s. 1; 1999-84, s. 13.)
34

35 **§ 115D-58.4. Provisions for disbursement of local money.**

36 All local public funds received by or credited to an institution shall be disbursed on checks
37 signed by the two officials of the institution who shall have been designated by the board of
38 trustees. The officials so designated shall countersign a check only if the funds required by such
39 check are within the amount of funds remaining to the credit of the institution and are within
40 the unencumbered balance of the appropriation for the item of expenditure according to the
41 approved budgets of the institution. Each check shall be accompanied by an invoice, statement,
42 voucher, or other basic document which indicates, to the satisfaction of the signing officials,
43 that the issuance of such check is proper. (1963, c. 448, s. 23; 1965, c. 488, s. 2; 1979, c. 462, s.
44 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 157, s. 1.)
45

46 **§ 115D-58.5. Accounting system.**

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

50 (b) Each institution shall be governed in its purchasing of all supplies, equipment, and
51 materials by contracts made by or with the approval of the Purchase and Contract Division of

1 the Department of Administration except as provided in G.S. 115D-58.14. No contract shall be
2 made by any board of trustees for purchases unless provision has been made in the budget of
3 the institution to provide payment thereof. In order to protect the State purchase contracts, it is
4 the duty of the board of trustees and administrative officers of each institution to pay for such
5 purchases promptly in accordance with the contract of purchase. Equipment shall be titled to
6 the State Board of Community Colleges if derived from State or federal funds.

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

9 (d) Repealed by Session Laws 1983, c. 913, s. 18. (1963, c. 448, s. 23; 1979, c. 462, s.
10 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.
11 1; 1999-84, s. 14; 2000-67, s. 7(c).)

12 13 **§ 115D-58.6. Investment of idle cash.**

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

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

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

22 (a1) Deposits. – The institution may deposit at interest all or part of the cash balance of
23 any fund in an official depository of the institution. Moneys may be deposited at interest in any
24 official depository of the institution in the form of certificates of deposit or such other forms of
25 time deposits as may be approved for county governments. In addition, moneys may be
26 deposited in the form of certificates of deposit as provided for a local government or public
27 authority in G.S. 159-30(b1). Investment deposits shall be secured as provided in G.S.
28 159-31(b).

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

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

36 (1) Moneys shall be invested only in the form of investments pursuant to G.S.
37 159-30(c) to county governments or in any form of investment established or
38 managed by an investment advisor who is registered and in good standing
39 with either the Securities and Exchange Commission or the North Carolina
40 Secretary of State, Securities Division, and is a member of the Securities
41 Investor Protection Corporation. Money in endowment funds may be
42 invested pursuant to G.S. 147-69.2. Provided, however, the institution may
43 elect to deposit at interest any local funds with the State Treasurer for
44 investment as special trust funds pursuant to the provisions of G.S. 147-69.3,
45 and the interest thereon shall accrue to the institution as local funds.

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

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

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

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

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

18 (1) Investment decisions shall be solely in the interest of the college and the
19 students, faculty, and staff of the college.

20 (2) The investments shall be for the exclusive purpose of providing an adequate
21 return to the college.

22 (3) Investments shall be made with the care, skill, and caution under the
23 circumstances then prevailing which a prudent person acting in a like
24 capacity and familiar with those matters would use in the conduct of an
25 activity of like character and purpose.

26 (4) Investment decisions shall be made impartially, taking into account the best
27 interest of the college, with special attention to conflicts of interest or
28 potential conflicts of interest.

29 (5) Investments shall incur only costs that are appropriate and reasonable.
30 (1981, c. 157, s. 1; c. 612, s. 1; 2005-394, s. 3; 2011-145, s. 8.20(a).)

31
32 **§ 115D-58.7. Selection of depository; deposits to be secured.**

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

40 (b) Money deposited in an official depository or deposited at interest pursuant to G.S.
41 115D-58.6(a1) shall be secured in the manner prescribed in G.S. 159-31(b). When deposits are
42 secured in accordance with this subsection, no public officer or employee may be held liable
43 for any losses sustained by an institution because of the default or insolvency of the depository.
44 (1981, c. 157, s. 1; c. 612, s. 1; 2011-145, s. 8.20(b).)

45
46 **§ 115D-58.8. Facsimile signatures.**

47 The board of trustees may provide by appropriate resolution for the use of facsimile
48 signature machines, signature stamps, or similar devices in signing checks and drafts. The
49 board shall charge some bonded officer or employee with the custody of the necessary
50 machines, stamps, plates, or other devices, and that person and the sureties on his official bond
51 are liable for any illegal, improper, or unauthorized use of them. Rules and regulations

1 governing the use and control of the facsimile signature shall be adopted by the State Board of
2 Community Colleges. (1981, c. 157, s. 1.)

3
4 **§ 115D-58.9. Daily deposits.**

5 All moneys regardless of source or purpose collected or received by an officer, employee,
6 or agent of an institution shall be deposited intact in accordance with this section. Each officer,
7 employee and agent of an institution whose duty it is to collect or receive any moneys shall
8 deposit his collections and receipts daily. If the board of trustees gives its approval, deposits
9 may be required only when the moneys on hand amount to as much as two hundred fifty dollars
10 (\$250.00), but in any event, a deposit shall be made on the last business day of the month. All
11 deposits shall be made in an official depository. Tuition and all revenues declared by law to be
12 State moneys or otherwise required to be deposited with the State Treasurer shall be deposited
13 pursuant to the rules of the State Treasurer pursuant to G.S. 147-77. (1981, c. 157, s. 1.)

14
15 **§ 115D-58.10. Surety bonds.**

16 The State Board of Community Colleges shall determine what State employees and
17 employees of institutions shall give bonds for the protection of State funds and property and the
18 State Board is authorized to place the bonds and pay the premiums thereon from State funds.

19 The board of trustees of each institution shall require all institutional employees authorized
20 to draw or approve checks or vouchers drawn on local funds, and all persons authorized or
21 permitted to receive institutional funds from whatever source, and all persons responsible for or
22 authorized to handle institutional property, to be bonded by a surety company authorized to do
23 business with the State in such amount as the board of trustees deems sufficient for the
24 protection of such property and funds. The tax-levying authority of each institution shall
25 provide the funds necessary for the payment of the premiums of such bonds. (1963, c. 448, s.
26 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 157, s. 1.)

27
28 **§ 115D-58.11. Fire and casualty insurance on institutional buildings and contents.**

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

31 (1) Insure and keep insured each building owned by the institution to the extent
32 of the current insurable value, as determined by the insured and insurer,
33 against loss by fire, lightning, and the other perils embraced in extended
34 coverage.

35 (2) Insure and keep insured equipment and other contents of all institutional
36 buildings that are the property of the institution or the State or which are
37 used in the operation of the institution.

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

40 (c) Boards of trustees may purchase insurance from companies duly licensed and
41 authorized to sell insurance in this State or may obtain insurance in accordance with the
42 provisions of Article 16, Chapter 115, of the General Statutes, "State Insurance of Public
43 School Property." (1963, c. 448, s. 23; 1979, c. 462, s. 2; 1981, c. 157, s. 1.)

44
45 **§ 115D-58.12. Liability insurance; tort actions against boards of trustees.**

46 (a) Boards of trustees may purchase liability insurance only from companies duly
47 licensed and authorized to sell insurance in this State or from other qualified companies as
48 determined by the Department of Insurance. Each contract of insurance must, by its terms,
49 adequately insure the board of trustees against any and all liability for any damages by reason
50 of death or injury to person or property proximately caused by the negligence or torts of the
51 agents and employees of such board of trustees or institution when acting within the scope of

1 their authority or the course of their employment. Any company which enters into such a
2 contract of insurance with a board of trustees by such act waives any defense based upon the
3 governmental immunity of such board.

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

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

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

24 (e) The board of trustees of all institutions in this Chapter is authorized to pay as a
25 necessary expense the lawful premiums of liability insurance provided in this section. (1963, c.
26 448, s. 23; 1979, c. 462, s. 2; 1981, c. 157, s. 1; 1985, c. 489.)
27

28 **§ 115D-58.13. Vending facilities.**

29 Moneys received by an institution on account of operation of vending facilities shall be
30 deposited, budgeted, appropriated, and expended in accordance with the provisions of this
31 Article. (1983 (Reg. Sess., 1984), c. 1034, s. 170.)
32

33 **§ 115D-58.14. Purchasing flexibility.**

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

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

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

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

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

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

16 **§ 115D-58.15. Lease purchase and installment purchase contracts for equipment.**

17 (a) Authority. – The board of trustees of a community college may use lease purchase
18 or installment purchase contracts to purchase or finance the purchase of equipment as provided
19 in this section. A college shall not have more than five State-funded contracts in effect at any
20 one time.

21 (b) Contract Approval. – Contracts for more than one hundred thousand dollars
22 (\$100,000) or for a term of more than three years shall be subject to review and approval as
23 provided in this subsection. If the source of funds for payment of the obligation by the
24 community college is intended to be local funds, the contract must be approved by resolution of
25 the tax-levying authority, and the authority must acknowledge in writing its understanding that
26 the community college may require appropriations from the tax-levying authority in order to
27 meet the college's obligations under the contract. The tax-levying authority may in each fiscal
28 year appropriate sufficient funds to meet the amounts to be paid during the fiscal year under the
29 contract. If the source of funds for payment of the obligation by the community college is
30 intended to be State funds, the contract must be approved by resolution of the State Board of
31 Community Colleges. The State Board may in each fiscal year allocate sufficient funds to meet
32 the amounts to be paid during the fiscal year under the contract.

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

- 36 (1) Extends for five or more years from the date of the contract;
- 37 (2) Obligates the board of trustees to pay sums of money to another, regardless
38 of whether the payee is a party to the contract; and
- 39 (3) Obligates the board of trustees to pay five hundred thousand dollars
40 (\$500,000) or more over the full term of the contract.

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

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

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

50 (f) Nonappropriations Clause. – No deficiency judgment may be rendered against any
51 board of trustees, any tax-levying authority, the State Board of Community Colleges, or the

1 State of North Carolina in any action for breach of a contractual obligation authorized by this
2 section. The taxing power of a tax-levying authority and the State is not and may not be
3 pledged directly or indirectly to secure any moneys due under a contract authorized by this
4 section. (1998-111, s. 2; 2007-484, s. 29(e).)

5
6 **§ 115D-58.16. Audits.**

7 (a) Each community college shall be audited a minimum of once every two years.
8 Community colleges may use State funds to contract with the State Auditor or with a certified
9 public accountant to perform the audits. The colleges shall submit the results of the audits to
10 the State Board of Community Colleges.

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

13 (b) Notwithstanding the provisions of Chapter 143D of the General Statutes, a
14 community college shall not be subject to the EAGLE program administered by the Office of
15 the State Controller unless (i) there is a finding of internal control problems in the most recent
16 financial audit of the college or (ii) the State Board of Community Colleges determines that a
17 college should be subject to the program. (2011-145, s. 8.15.)
18

19 Article 5.

20 Special Provisions.

21 **§ 115D-59. Multiple-county administrative areas.**

22 Should two or more counties determine to form an administrative area for the purpose of
23 establishing and supporting an institution, the boards of commissioners of all such counties
24 shall jointly propose a contract to be submitted to the State Board of Community Colleges as
25 part of the request for establishment of an institution. The contract shall provide, in terms
26 consistent with this Chapter, for financial support of the institution, selection of trustees,
27 termination of the contract and the administrative area, and any other necessary provisions. The
28 State Board of Community Colleges shall have authority to approve the terms of the contract as
29 a prerequisite for granting approval of the establishment of the institution and the
30 administrative area. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c.
31 1130, s. 1.)
32

33 **§ 115D-60. Special provisions for Central Piedmont Community College.**

34 (a) The board of commissioners of Mecklenburg County is authorized to provide the
35 local financial support for the Central Piedmont Community College as provided in G.S.
36 115D-32 by levying a special tax to a maximum annual rate equal to the maximum rate last
37 approved by the voters of the county for the support of the Central Piedmont Community
38 College as operated pursuant to Article 3, Chapter 116, of the General Statutes of North
39 Carolina, or by appropriations from nontax revenues, or by both. The question of increasing the
40 maximum annual rate may be submitted at an election held in accordance with the provisions
41 of G.S. 115D-33(d) and the appropriate provisions of G.S. 115D-35.

42 (b) When, in the opinion of the board of trustees of said institution, the use of any
43 building, building site, or other real property owned or held by said board is unnecessary or
44 undesirable for the purposes of said institution the board of trustees may sell, exchange, or
45 lease such property in the same manner as is provided by law for the sale, exchange, or lease of
46 school property by county or city boards of education. The proceeds of any such sale or lease
47 shall be used for capital outlay purposes. (1963, c. 448, s. 23; 1965, c. 402; 1979, c. 462, s. 2.)
48

49 **§ 115D-61. Special provisions for Coastal Carolina Community College.**

50 All local taxes heretofore authorized by the voters of Onslow County to be levied annually
51 for the local financial support of the Onslow County Industrial Education Center may continue

1 to be levied by the board of commissioners of Onslow County for the purpose of providing
2 local financial support of the institution under its present name. (1967, c. 279; 1979, c. 462, s.
3 2.)
4

5 **§ 115D-62. Trustee Association Regions.**

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

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

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

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

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

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

19 Region 6: The counties of Beaufort, Bertie, Camden, Chowan, Currituck, Dare,
20 Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pasquotank,
21 Perquimans, Pitt, Tyrrell, Washington, and Wilson. (1979, c. 896, s. 9; 1993, c. 69, s. 1.)
22

23 **§§ 115D-63 through 115D-67. Reserved for future codification purposes.**
24

25 Article 5A.

26 North Carolina Center for Applied Textile Technology at Gaston College.

27 **§ 115D-67.1. Purpose of the Center.**

28 The purpose of the North Carolina Center for Applied Textile Technology is to develop a
29 world-class workforce for the textile industry in North Carolina; support the textile industry by
30 identifying problems confronting the industry and assisting the industry in solving them; garner
31 support from the textile industry for the work of the Center; and serve as a statewide center of
32 excellence that serves all components of the textile industry. (2005-103, s. 3.)
33

34 **§ 115D-67.2. Advisory Board.**

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

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

- 39 (1) The President of Gaston College, who shall serve ex officio;
- 40 (2) Four members appointed by the North Carolina Manufacturers Association,
41 Inc.;
- 42 (3) Two members appointed by the board of the North Carolina Center for
43 Applied Textile Technology Foundation;
- 44 (4) Two members appointed by the board of trustees of Gaston College;
- 45 (5) Three members appointed by the State Board of Community Colleges;
- 46 (6) One member appointed by the dean of the College of Textiles at North
47 Carolina State University; and
- 48 (7) The Director of the Manufacturing Solutions Center at Catawba Valley
49 Community College who shall serve ex officio as a nonvoting member.

50 The appointing entities shall attempt to appoint members who are distributed geographically
51 throughout the State; members representing large and small companies; and members from

1 each segment of the diverse textile industry including spun yarn manufacturing, filament yarn
2 manufacturing, knitting, weaving, dyeing and finishing, apparel, nonwoven, technical medical
3 textiles, and fiber producers.

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

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

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

16 Members shall receive per diem, travel, and subsistence allowances in accordance with G.S.
17 138-5 and G.S. 138-6, as appropriate.

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

21 22 **§ 115D-67.3. Director and other Center personnel.**

23 The President of Gaston College shall appoint an individual to serve as the director of the
24 Center from a list of two or more candidates recommended by the Advisory Board. If the
25 President rejects the recommended candidates, the Advisory Board shall submit two or more
26 additional candidates. The director, after consultation with the Advisory Board and subject to
27 the approval of the President of Gaston College, shall select other staff members of the Center.
28 The director and other staff members of the Center are employees of Gaston College and are
29 subject to the personnel policies of Gaston College. (2005-103, s. 3.)
30

31 **§ 115D-67.4. Fees collected by the Center; purchases using Center funds.**

32 Notwithstanding any other provision of law, all fees collected by the Applied Textile
33 Technology Center for services to the textile industry, except for regular curriculum and
34 continuing education tuition receipts, shall be retained by the Center and used for the
35 operations of the Center. Purchases made by the Center using these funds are not subject to the
36 provisions of Article 3 of Chapter 143 of the General Statutes. However, the Center shall: (i)
37 submit all proposed agreements or contracts for supplies, materials, printing, equipment, and
38 contractual services that exceed one million dollars (\$1,000,000) authorized by this section to
39 the Attorney General or the Attorney General's designee for review as provided in G.S.
40 114-8.3; and (ii) include in all agreements or contracts to be awarded by the Center under this
41 section a standard clause which provides that the State Auditor and internal auditors of the
42 Center may audit the records of the contractor during and after the term of the contract to verify
43 accounts and data affecting fees and performance. The Center shall not award a cost plus
44 percentage of cost agreement or contract for any purpose. (2005-103, s. 3; 2010-194, s. 17;
45 2011-326, s. 15(q).)
46

47 Article 6.

48 Textile Training School.

49 **§§ 115D-68 through 115D-71:** Repealed by Session Laws 2005-103, s. 2, effective July 1,
50 2005.
51

1 Article 6A.

2 Motorcycle Safety Instruction.

3 **§ 115D-72. Motorcycle Safety Instruction Program.**

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

14 (b) The Motorcycle Safety Instruction Program shall be implemented through the
15 Community Colleges System Office at institutions which choose to provide the Program. The
16 motorcycle safety coordinator shall select and facilitate the training and certification of
17 instructors who will implement the Program. (1989, c. 755, s. 1; 1993, c. 320, s. 5; 1999-84, s.
18 15.)

19
20 **§§ 115D-73 through 115D-76. Reserved for future codification purposes.**

21
22 Article 7.

23 Miscellaneous Provisions.

24 **§ 115D-77. Nondiscrimination policy.**

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

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

33
34 **§ 115D-78. Access to information and public records; small business counseling
35 information.**

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

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

46
47 **§ 115D-79. Open meetings.**

48 All official meetings of the State Board of Community Colleges and of local boards of
49 trustees shall be open to the public in accordance with the provisions of G.S. 143-318.1 through
50 143-318.7. (1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1.)

1 § 115D-80: Repealed by Session Laws 2011-145, s. 8.18(b1), as amended by Session Laws
2 2011-391, s. 19, effective July 1, 2011.

3
4 **§ 115D-81. Saving clauses.**

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

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

16
17 **§§ 115D-82 through 115D-86. Reserved for future codification purposes.**

18
19 Article 8.

20 Proprietary Schools.

21 **§ 115D-87. Definitions.**

22 The following definitions apply in this Article:

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

45 The term includes a branch or extension of a private postsecondary
46 educational institution of another state that is located in this State or that
47 offers educational services or education at a physical location within this
48 State. Delivery systems employed may include, but are not limited to, (i)
49 correspondence, (ii) classrooms, (iii) hotels or other temporary dwelling
50 units or areas, or (iv) electronic communications such as those used in
51 distance education. Distance education is education, training courses, or

1 programs delivered to a student who is geographically separate from the
2 instructor. It does not include institutions licensed by G.S. 116-15.

3 If a school has physical locations and offers classes in more than one
4 county, the school's operation in each county shall constitute a separate
5 proprietary school, as defined in this section. (1955, c. 1372, art. 30, ss. 1, 2;
6 1957, c. 1000; 1961, c. 1175, s. 1; 1981, c. 423, s. 1; 1987, c. 442, s. 2; 1989
7 (Reg. Sess., 1990), c. 877, s. 1; 1993, c. 553, s. 32.2; 2011-21, s. 1;
8 2011-326, s. 16(a).)

9
10 **§ 115D-88. Exemptions.**

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

- 13 (1) Nonprofit schools conducted by (i) charities that are exempt from taxation
14 under section 501(c)(3) of the Internal Revenue Code where no fee or tuition
15 is charged to the student or (ii) religious institutions.
- 16 (2) Schools maintained or classes conducted by employers for their own
17 employees where no fee or tuition is charged to the student.
- 18 (3) Courses of instruction given by any fraternal society, civic club, or
19 benevolent order, which courses are not operated for profit.
- 20 (4) Any school for which there is another legally existing licensing or approving
21 board or agency in this State.
- 22 (4a) Classes or schools that are equipment-specific to purchasers, users, classes,
23 or schools offering training or instruction to acquaint purchasers or users
24 with equipment capabilities.
- 25 (4b) Repealed by Session Laws 2011-21, s. 2, effective July 1, 2011.
- 26 (4c) Classes or schools that the State Board, acting by and through the State
27 Board of Proprietary Schools determines are avocational, recreational,
28 self-improvement, or continuing education for already trained and
29 occupationally qualified individuals.
- 30 (5) Any established university, professional, or liberal arts college, public or
31 private school regulated or recognized pursuant to Chapter 115C of the
32 General Statutes or by any other State Agency, or any State institution which
33 has heretofore offered, or which may hereinafter offer one or more courses
34 covered in this Article: Provided, that the tuition fees and charges, if any,
35 made by such university, college, high school, or State institution shall be
36 collected by their regular officers in accordance with the rules prescribed by
37 the board of trustees or governing body of such university, college, high
38 school, or State institution; but provisions of the Article shall apply to all
39 proprietary schools as defined in this Article, and operated within the State
40 of North Carolina as such institutions, except schools for which there are
41 other legally existing licensing boards or agencies.
- 42 (6) Any institution that is exempt from licensure pursuant to G.S. 116-15(c).
43 (1955, c. 1372, art. 30, ss. 1, 2; 1957, c. 1000; 1961, c. 1175, s. 2; 1981, c.
44 423, s. 1; 1983, c. 768, s. 10; 1987, c. 442, s. 2; 1989 (Reg. Sess., 1990), c.
45 877, s. 2; 2011-21, s. 2; 2011-308, s. 2.)

46
47 **§ 115D-89. State Board of Community Colleges to administer Article; issuance of**
48 **diplomas by schools; investigation and inspection; rules.**

49 (a) The State Board of Community Colleges, acting by and through the State Board of
50 Proprietary Schools, shall have authority to administer and enforce this Article and to grant and
51 issue licenses to proprietary schools whose sustained curriculum is of a grade equal to that

1 prescribed for similar public schools and educational institutions of the State and which have
2 met the standards set forth by the Board, including but not limited to course offerings, adequate
3 facilities, financial stability, competent personnel and legitimate operating practices.

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

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

23 The State Board, acting by and through the State Board of Proprietary Schools, may request
24 any occupational licensing or approving board or agency in this State to adopt rules requiring
25 the approval of that board or agency for a course of study. Under these rules, the board or
26 agency shall pass on the adequacy of equipment, curricula, and instructional personnel. The
27 State Board of Community Colleges may deny approval to a course of study that is not
28 approved by such board or agency. (1955, c. 1372, art. 30, s. 4; 1957, c. 1000; 1961, c. 1175, s.
29 3; 1981, c. 423, s. 1; 1987, c. 442, ss. 1, 2; 1989 (Reg. Sess., 1990), c. 877, s. 3; 2011-21, s. 3;
30 2011-308, s. 3.)

31 32 **§ 115D-89.1. State Board of Proprietary Schools.**

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

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

- 36 (1) The President of the North Carolina Community College System or the
37 President's designee.
- 38 (2) Two members appointed by the Governor.
- 39 (3) Two members appointed by the General Assembly upon the
40 recommendation of the President Pro Tempore of the Senate, one of whom
41 shall be the owner or director of a proprietary school licensed in the State
42 with less than 100 total annual enrollment of students and one the owner or
43 director of a proprietary school or group of proprietary schools licensed in
44 the State with more than 750 total annual enrollment of students.
- 45 (4) Two members appointed by the General Assembly upon the
46 recommendation of the Speaker of the House of Representatives, one of
47 whom shall be the owner or director of a proprietary school licensed in the
48 State with between 100 and 750 total annual enrollment of students and one
49 the owner or director of a proprietary school licensed in the State.

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

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

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

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

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

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

20 (g) The State Board of Proprietary Schools shall meet at stated times established by the
21 State Board of Proprietary Schools but not less frequently than four times a year. Special
22 meetings of the State Board of Proprietary Schools may be set at any regular meeting or may be
23 called by the chair. A majority of the qualified members of the State Board of Proprietary
24 Schools shall constitute a quorum for the transaction of business. (2011-308, s. 1.)
25

26 **§ 115D-89.2. Office of Proprietary Schools; staff.**

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

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

37 The State Board of Proprietary Schools may hire other employees as it deems necessary to
38 carry out the provisions of this Article. The compensation of the staff members hired by the
39 State Board of Proprietary Schools shall be fixed by the State Board of Proprietary Schools
40 upon recommendation of the Executive Director of the Office of Proprietary Schools. The
41 Executive Director shall provide an annual projected operating budget to the State Board of
42 Proprietary Schools at a time each year designated by the State Board of Proprietary Schools.
43 The budget will be approved by the State Board of Proprietary Schools from funds provided by
44 fees deposited in the Commercial Education Fund. (2011-308, s. 1.)
45

46 **§ 115D-89.3. State Board of Proprietary Schools and State Board of Community 47 Colleges; licensing authority and coordination of responsibilities to administer 48 Article.**

49 The State Board of Community Colleges, having the authority under G.S. 115D-89 to grant
50 and issue licenses to proprietary schools by and through the State Board of Proprietary Schools,
51 shall receive written recommendation from the State Board of Proprietary Schools concerning

1 applicants for licenses and annual renewal applications for licenses. The State Board of
2 Proprietary Schools shall prepare and have approved by the State Board of Community
3 Colleges a certificate of license that reflects the recommendation of the State Board of
4 Proprietary Schools and approval by the State Board of Community Colleges. The State Board
5 of Community Colleges shall also receive from the State Board of Proprietary Schools and
6 have authority concerning proposed changes to the General Statutes and rules affecting
7 proprietary schools. The State Board of Community Colleges shall receive a written report
8 annually from the State Board of Proprietary Schools to include the number of schools
9 receiving initial licenses during the previous year, a list of currently licensed proprietary
10 schools, school closures during the previous year, including a complete report of actions
11 concerning any catastrophic closures, complaints received and resulting decisions or actions,
12 total fees received, and balances of the Commercial Education Fund and the Student Protection
13 Fund. The State Board of Proprietary Schools shall provide the State Board of Community
14 Colleges with any information requested. (2011-308, s. 1.)
15

16 **§ 115D-90. License required; application for license; school bulletins; requirements for**
17 **issuance of license; license restricted to courses indicated; supplementary**
18 **applications.**

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

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

- 28 (1) The title or name of the school or classes, together with the name and
29 address of the owners and of the controlling officers thereof.
- 30 (2) The general field of instruction.
- 31 (3) The place or places where such instruction will be given.
- 32 (4) A specific listing of the equipment available for instruction in each field.
- 33 (5) The qualifications of instructors and supervisors.
- 34 (6) Financial resources available to equip and to maintain the school or classes.
- 35 (7) Such additional information as the State Board, acting by and through the
36 State Board of Proprietary Schools, may deem necessary to enable it to
37 determine the adequacy of the program of instruction and matters pertaining
38 thereto. Each application shall be accompanied by a copy of the current
39 bulletin or catalog of the school which shall be in published form and
40 certified by an authorized official of the school as being current, true, and
41 correct in content and policy. The school bulletin shall contain the following
42 information:
 - 43 a. Identifying data, such as volume number and date of publication.
 - 44 b. Names of the institution and its governing body, officials and faculty.
 - 45 c. A calendar of the institution showing legal holidays, beginning and
46 ending date of each quarter, term or semester, and other important
47 dates.
 - 48 d. Institution's policy and regulations relative to leave, absences, class
49 cuts, make-up work, tardiness and interruptions for unsatisfactory
50 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.

- 1 (6) Upon completion of training, the student is given a certificate or diploma by
2 the institution indicating the approved course or subjects and indicating that
3 training was satisfactorily completed.
- 4 (7) Adequate records as prescribed by the State Board of Community Colleges,
5 acting by and through the State Board of Proprietary Schools, are kept to
6 show attendance and progress or grades and satisfactory standards relating to
7 attendance, progress and conduct are enforced.
- 8 (8) The school complies with all local, city, county, municipal, State and federal
9 regulations, such as fire codes, building and sanitation codes. The State
10 Board of Community Colleges may require such evidence of compliance as
11 is deemed necessary.
- 12 (9) The school is financially sound and capable of fulfilling its commitments for
13 training.
- 14 (10) The school does not exceed its enrollment limitation as established by the
15 State Board of Community Colleges.
- 16 (11) The school does not utilize advertising of any type which is erroneous or
17 misleading, either by actual statement, omission or intimation.
- 18 (12) The school's administrators, directors, owners and instructors are of good
19 reputation and character.
- 20 (13) Such additional criteria as may be deemed necessary by the State Board of
21 Community Colleges.

22 (d) Any license issued shall be restricted to the programs of instruction or courses or
23 subjects specifically indicated in the application for a license. The holder of a license shall
24 present a supplementary application as may be directed by the State Board of Proprietary
25 Schools for approval of additional programs of instruction, courses, or subjects, in which it is
26 desired to offer instruction during the effective period of the license. (1955, c. 1372, art. 30, ss.
27 3, 4; 1957, c. 1000; 1961, c. 1175, s. 4; 1981, c. 423, s. 1; 1987, c. 442, ss. 1, 2; 1989 (Reg.
28 Sess., 1990), c. 877, s. 4; 1991, c. 636, s. 11; 2011-21, ss. 4, 5; 2011-308, s. 4.)
29

30 **§ 115D-91. Duration and renewal of licenses; notice of change of ownership,**
31 **administration, etc.; license not transferable.**

32 (a) All licenses issued shall expire on June 30.
33 (b) Unless a duration is otherwise prescribed by the State Board of Community
34 Colleges, licenses shall be renewable annually on July 1 if all of the following conditions are
35 met:

- 36 (1) An application for the renewal of the license has been filed in the form and
37 manner prescribed by the State Board, acting by and through the State Board
38 of Proprietary Schools.
- 39 (2) The renewal fee has been paid.
- 40 (3) The school and its courses, facilities, faculty and all other operations are
41 found to meet the criteria set forth in the requirements for a school to secure
42 an original license.

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

48 (d) In the event of the sale of such school, the license already granted to the original
49 owner or operators thereof shall not be transferable to the new ownership or operators.
50 Provided, however, the State Board of Proprietary Schools may issue a 90-day, temporary
51 operating license to a school upon its sale if the school held a valid, current license prior to the

1 sale, and if the State Board of Proprietary Schools finds that the school is likely to qualify after
2 the sale for a license under this Article. (1955, c. 1372, art. 30, s. 4; 1957, c. 1000; 1961, c.
3 1175, s. 5; 1981, c. 423, s. 1; 1987, c. 442, ss. 1, 2; 1989 (Reg. Sess., 1990), c. 877, s. 5;
4 2011-21, s. 6; 2011-308, s. 5.)

5
6 **§ 115D-92. Authority to establish fees; Commercial Education Fund established; refund**
7 **of fees.**

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

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

17
18 **§ 115D-93. Suspension, revocation or refusal of license; notice and hearing; judicial**
19 **review; grounds.**

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

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

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

- 28 (1) That the applicant for or holder of such a license has violated any of the
29 provisions of this Article or any of the rules promulgated thereunder.
- 30 (2) That the applicant for or holder of such a license has knowingly presented to
31 the State Board of Community Colleges false or misleading information
32 relating to approval or license.
- 33 (3) That the applicant for or holder of such a license has failed or refused to
34 permit authorized representatives of the State Board of Community Colleges
35 to inspect the school, or has refused to make available to them at any time
36 upon request full information pertaining to matters within the purview of the
37 State Board of Community Colleges under the provisions of this Article.
- 38 (4) That the applicant for or holder of such a license has perpetrated or
39 committed fraud or deceit in advertising the school or in presenting to the
40 prospective students written or oral information relating to the school, to
41 employment opportunities, or to opportunities for enrollment in other
42 institutions upon completion of the instruction offered in the school.
- 43 (5) That the applicant or licensee has pleaded guilty, entered a plea of nolo
44 contendere or has been found guilty of a crime involving moral turpitude by
45 a judge or jury in any state or federal court.
- 46 (6) That the applicant or licensee has failed to provide or maintain premises,
47 equipment or conditions which are adequate, safe and sanitary, in
48 accordance with such standards of the State of North Carolina or any of its
49 political subdivisions, as are applicable to such premises and equipment.

- 1 (7) That the licensee is employing teachers, supervisors or administrators who
2 have not been approved by the State Board, acting by and through the State
3 Board of Proprietary Schools.
- 4 (8) That the licensee has failed to provide and maintain adequate premises,
5 equipment, materials or supplies, or has exceeded the maximum enrollment
6 for which the school or class was licensed.
- 7 (9) That the licensee has failed to provide and maintain adequate standards of
8 instruction or an adequate and qualified administrative, supervisory or
9 teaching staff.
- 10 (10) That the applicant for or a holder of a license has failed to provide a required
11 bond or bond alternative.
- 12 (11) That the applicant for or holder of a license has failed to pay assessments
13 into the Student Protection Fund. (1961, c. 1175, s. 7; 1973, c. 1331, s. 3;
14 1981, c. 423, s. 1; 1987, c. 442, ss. 1, 2; c. 827, s. 53; 1989 (Reg. Sess.,
15 1990), c. 877, s. 7; 2009-562, s. 1; 2011-308, s. 7.)
16

17 **§ 115D-94: Repealed by Session Laws 1983 (Regular Session, 1984), c. 995, s. 17.**
18

19 **§ 115D-95. Bonds required.**

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

25 (b) Amount. – An applicant for a license must file a bond with the North Carolina State
26 Board of Community Colleges executed by the applicant as a principal and by a bonding
27 company authorized to do business in this State. The bond must be payable to the State Board
28 of Community Colleges, must be conditioned on fulfillment of the school's obligations, and
29 must remain in effect until cancelled by the bonding company. The bonding company may
30 cancel the bond upon 30 days' notice to the State Board of Community Colleges.

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

- 33 (1) Initial licensure. – For an applicant for initial licensure of a school, the bond
34 amount is the amount determined by the State Board that is adequate to
35 provide indemnification to any student, or the student's parent or guardian
36 who has suffered a loss of tuition, fees, or any other instructional-related
37 expenses paid to the school. A bond amount shall be at least twenty-five
38 thousand dollars (\$25,000).
- 39 (2) First four renewals. – For a school that has been licensed for one year but
40 less than six years, the bond shall be in an amount equal to the greatest
41 amount of unearned paid tuition in the school's possession at anytime during
42 the prior fiscal year. The bond amount shall be evaluated by the school
43 quarterly and reported to the State Board or its representative. A quarterly
44 evaluation requiring an increase of five percent (5%) or more in the amount
45 of the bond held by the school shall require an immediate increase in the
46 bond amount. Bond amounts also shall be evaluated pursuant to this
47 subdivision and the rules of the State Board of Community Colleges and
48 State Board of Proprietary Schools at the time of the school's annual license
49 renewal and increased if necessary regardless of the amount of the change.

- 1 (3) Schools in operation more than five years. – A guaranty bond shall be
2 required for license renewal for a school that has been continuously licensed
3 to operate for more than five years in the State, as follows:
4 a. If the balance of the Student Protection Fund in G.S. 115D-95.1 is
5 below the catastrophic loss amount, the school shall file a guaranty
6 bond in an amount equal to the maximum amount of prepaid tuition
7 held by the school during the prior fiscal year multiplied by the
8 percentage amount the fund is deficient.
9 b. If the school held prepaid tuition in excess of the Student Protection
10 Fund catastrophic loss amount during the prior fiscal year, in
11 addition to any bond amount required by sub-subdivision a. of this
12 subdivision, the school shall file a guaranty bond for the difference
13 between the prepaid tuition amount held in the previous fiscal year
14 and the Fund catastrophic loss amount.
- 15 (c) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond
16 from the State Board of Community Colleges and approval of one of the guaranty bond
17 alternatives set forth in this subsection. With the approval of the State Board, an applicant may
18 obtain in lieu of a bond:
- 19 (1) An assignment of a savings account in an amount equal to the bond required
20 (i) which is in a form acceptable to the State Board of Community Colleges;
21 (ii) which is executed by the applicant; and (iii) which is executed by a state
22 or federal savings and loan association, state bank, or national bank, that is
23 doing business in North Carolina and whose accounts are insured by a
24 federal depositors corporation; and (iv) for which access to the account in
25 favor of the State of North Carolina is subject to the same conditions as for a
26 bond in subsection (b) of this section.
- 27 (2) A certificate of deposit (i) which is executed by a state or federal savings and
28 loan association, state bank, or national bank, which is doing business in
29 North Carolina and whose accounts are insured by a federal depositors
30 corporation; and (ii) which is either payable to the State of North Carolina,
31 unrestrictively endorsed to the State Board of Community Colleges; in the
32 case of a negotiable certificate of deposit, is unrestrictively endorsed to the
33 State Board of Community Colleges; or in the case of a nonnegotiable
34 certificate of deposit, is assigned to the State Board of Community Colleges
35 in a form satisfactory to the State Board; and (iii) for which access to the
36 certificate of deposit in favor of the State of North Carolina is subject to the
37 same conditions as for a bond in subsection (b) of this section. (1955, c.
38 1372, art. 30, s. 5; 1957, c. 1000; 1961, c. 1175, s. 9; 1981, c. 423, s. 1;
39 1987, c. 442, ss. 1, 2; 1989 (Reg. Sess., 1990), c. 824, s. 1; 2009-562, s. 2;
40 2011-308, s. 8.)

41
42 **§ 115D-95.1. Student Protection Fund.**

- 43 (a) Definitions. – As used in this section:
44 (1) "Catastrophic loss amount" means the amount of funds required to protect
45 prepaid student tuition in case of a large-scale event that would draw against
46 the Student Protection Fund. The amount is one million dollars (\$1,000,000).
47 (2) "Fund cap amount" means the catastrophic loss amount plus a reserve
48 amount. The amount is one million five hundred thousand dollars
49 (\$1,500,000).
- 50 (b) Student Protection Fund. – The Student Protection Fund is established in the
51 Department of State Treasurer as a statewide fee-supported fund. Interest accruing to the Fund

1 is credited to the Fund. The State Board of Proprietary Schools administers the Fund. The
2 purpose of the Fund is to compensate students enrolled in a proprietary school licensed under
3 this Article who have suffered a loss of tuition, fees, or any other instructional-related expenses
4 paid to the school by reason of the failure of the school to offer or complete student instruction,
5 academic services, or other goods and services related to course enrollment if the school ceases
6 to operate for any reason, including the suspension, revocation, or nonrenewal of a school's
7 license, bankruptcy, or foreclosure.

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

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

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

18 Annual Gross Tuition Revenue	Amount of Assessment
19 \$1.00 – \$25,000	\$200.00
20 \$25,001 – \$50,000	\$250.00
21 \$50,001 – \$100,000	\$300.00
22 \$100,001 – \$200,000	\$400.00
23 \$200,001 – \$300,000	\$500.00
24 \$300,001 – \$400,000	\$600.00
25 \$400,001 – \$500,000	\$700.00
26 \$500,001 – \$750,000	\$1,000
27 \$750,001 – \$1,000,000	\$1,250
28 \$1,000,001 – \$1,500,000	\$1,500
29 \$1,500,001 – \$2,000,000	\$2,000
30 Greater than \$2,000,000	\$2,000 plus one-twentieth of one percent 31 (.05%) of annual gross tuition revenue 32 over \$2,000,000.

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

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

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

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

50 (j) Student Repayment. – A student, or the student's parent or guardian, who has
51 suffered a loss of tuition, fees, or any other instructional-related expenses paid to a proprietary

1 school licensed under this Article by reason of the school ceasing to operate for any reason,
2 including the suspension, revocation, or nonrenewal of a school's license, bankruptcy, or
3 foreclosure, may qualify for repayments under the Student Protection Fund. The State Board of
4 Community Colleges first must issue repayment from the bonds issued under G.S. 115D-95. If
5 the Student Protection Fund is insufficient to cover the qualified claims, the State Board must
6 develop a method of allocating funds among claims.

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

10 **§ 115D-96. Operating school without license or bond made misdemeanor.**

11 Any person, or each member of any association of persons or each officer of any
12 corporation who opens and conducts a proprietary school without first having obtained the
13 license herein required, and without first having executed the bond, paid the assessments into
14 the Student Protection Fund, or both, as required by law, shall be guilty of a Class 3
15 misdemeanor, and each day the school continues to be open and operated shall constitute a
16 separate offense. (1955, c. 1372, art. 30, s. 7; 1957, c. 1000; 1961, c. 1175, s. 10; 1981, c. 423,
17 s. 1; 1987, c. 442, s. 2; 1989 (Reg. Sess., 1990), c. 877, s. 8; 1993, c. 539, s. 894; 1994, Ex.
18 Sess., c. 24, s. 14(c); 2009-562, s. 3; 2011-21, s. 7.)
19

20 **§ 115D-97. Contracts with unlicensed schools and evidences of indebtedness made null
21 and void.**

22 All contracts entered into by proprietary schools with students or prospective students, and
23 all promissory notes or other evidence of indebtedness taken in lieu of cash payments by such
24 schools shall be null and void unless such schools are duly licensed as required by this Article.
25 (1957, c. 1000; 1961, c. 1175, s. 11; 1981, c. 423, s. 1; 1987, c. 442, s. 2; 1989 (Reg. Sess.,
26 1990), c. 877, s. 9; 2011-21, s. 8.)