

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 Department of Juvenile Justice and Delinquency Prevention 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.)

§ 115D-1.1. Expired.

§ 115D-1.2. Learn and Earn Online program.

(a) Notwithstanding 115D-1, a public school student enrolled in grades 9, 10, 11, or 12 and participating in the Learn and Earn Online program shall be permitted to enroll in online courses through a community college for college credit. Students participating in the Learn and Earn Online program may enroll in Learn and Earn Online courses regardless of the college service areas in which they reside.

(b) The State Board of Community Colleges, in consultation with the Department of Public Instruction, shall adopt rules to implement this section beginning with the 2007-2008 school year. (2007-323, s. 7.27(j).)

§ 115D-2. Definitions.

As used in this Chapter:

- (1) The "administrative area" of an institution comprises the county or counties directly responsible for the local financial support and local administration of such institution as provided in this Chapter.
- (2) The term "community college" is defined as an educational institution operating under the provisions of this Chapter and dedicated primarily to the educational needs of the service area which it serves, and may offer
 - a. The freshmen and sophomore courses of a college of arts and sciences, authorized by G.S. 115D-4.1;

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

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

- (a) The State Board of Community Colleges is established.
- (b) The State Board of Community Colleges shall consist of 21 members, as follows:
 - (1) The Lieutenant Governor or the Lieutenant Governor's designee shall be a member ex officio.
 - (2) The Treasurer of North Carolina or the Treasurer's designee shall be a member ex officio.
 - (3) The Governor shall appoint to the State Board four members from the State at large and one member from each of the six Trustee Association Regions defined in G.S. 115D-62. The initial appointments by the Governor shall be made effective July 1, 1980, or as soon as feasible thereafter. In order to establish regularly overlapping terms, the initial appointments by the Governor shall be made so that three expire June 30, 1981, three expire June 30, 1983, and four expire June 30, 1985. Each subsequent regular appointment by the Governor shall be for a term of six years and until a successor is appointed and qualifies. Any vacancy occurring among his appointees before the expiration of term shall be filled by appointment of the Governor; the member so appointed shall meet the same residential qualification, if any, as the member whom he succeeds and shall serve for the remainder of the unexpired term of that member.
 - (4) The General Assembly shall elect eight members of the State Board from the State at large in the following manner:
 - a. In 1980, the Senate shall elect three members, one of whom shall serve a term expiring June 30, 1981, one of whom shall serve a term expiring June 30, 1983, and one of whom shall serve a term expiring June 30, 1985. In 1985, the Senate shall elect two members to serve terms expiring June 30, 1991. Each subsequent regular election

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

- b. In 1980, the House of Representatives shall elect four members, one of whom shall serve a term expiring June 30, 1981, one of whom shall serve a term expiring June 30, 1983, and two of whom shall serve a term expiring June 30, 1985. In 1985, the House of Representatives shall elect two members, to serve terms expiring June 30, 1991. Each subsequent regular election by the House of Representatives shall be for a term of six years and until a successor is elected and qualifies.
- c. Repealed by Session Laws 1985, c. 227, s. 5.
- d. The initial elections by the two houses of the General Assembly shall be held on or before July 1, 1980.
- e. Any vacancy occurring among the members elected by the two houses of the General Assembly before the expiration of term shall be filled when the General Assembly next convenes. The member then elected shall be elected by the same house that elected the member whom he succeeds, and shall serve for the remainder of the unexpired term of that member.
- f. At each session of the General Assembly held in an odd-numbered year, the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall assign to either a standing or a special committee of that house the duty of receiving from the members of that house nominations of persons to be considered by that house for election to the State Board. The chairmen of the two committees shall jointly determine a common final date for receiving nominations from members of that house, and a common date for reporting to their respective houses their nominations for the State Board. Each committee shall screen the proposed candidates for nomination as to their qualifications, background, lack of statutory disabilities, and willingness and ability to serve if elected. Each Senator and each Representative may nominate only one candidate. When the nominating process is closed, each committee shall list all candidates and shall separately vote "aye" or "no" on each candidate to determine whether that person shall be listed as a nominee of the committee. The verbal vote of a majority of those members of the committee present and voting shall constitute one nominee of the committee. An individual cannot be a candidate for nomination to more than one place. If a sufficient number of candidates is submitted to each committee, then each committee shall nominate at least two persons for each place to be filled by that chamber, otherwise each committee shall nominate at least one person for each place to be filled by each of the House of Representatives and the Senate. No person may simultaneously be a candidate for election by both houses, and if one is nominated in both houses, he shall determine by which house he shall be nominated and so advise the chairman of both committees. The two houses shall, by joint resolution, fix a common date and time for the election of members of the State Board. At the election session in each house, the committee shall report its list of nominees with the term of office indicated for each nominee. The ballot in the House of Representatives shall also include the names of all other persons nominated by a member of that house who are determined by the committee to be qualified for the offices, with the committee's list of nominees being clearly set out on the ballot. No additional nominations shall be received from the floor. Each house shall then proceed to an election of the State Board. In order to be chosen, a nominee shall receive the votes of a majority of all members present and voting.

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

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

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

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

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

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

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

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

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

(i) The State Board of Community Colleges may declare vacant the office of an appointed or elected member who does not attend

three consecutive scheduled meetings without justifiable excuse. The chairman of the State Board shall notify the appropriate appointing or electing authority of any vacancy. (1979, c. 896, s. 2; 1979, 2nd Sess., c. 1130, s. 5; 1981, c. 47, s. 8; c. 474; 1983, c. 311; c. 479, ss. 1-3; 1985, c. 227, ss. 1-5; c. 428; 1987 (Reg. Sess., 1988), c. 1102, s. 2; 1991, c. 83, s. 1; 1993, c. 69, s. 2; 1995, c. 192, s. 1; c. 470, ss. 3, 4; 1997-456, ss. 18, 19; 1999-61, ss. 1, 2; 1999-84, s. 7; 2006-31, s. 1; 2006-201, s. 2(c); 2007-278, s. 3.)

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

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

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

The President shall be assisted by such professional staff members as may be deemed necessary to carry out the provisions of this Chapter, who shall be elected by the State Board on nomination of the President. The compensation of the staff members elected by the Board shall be fixed by the State Board of Community Colleges, upon recommendation of the President of the Community College System, from funds provided in the Current Operations Appropriations Act. These staff members shall include such officers as may be deemed desirable by the President and State Board. Provision shall be made for persons of high competence and strong professional experience in such areas as academic affairs, public service programs, business and financial affairs, institutional studies and long-range planning, student affairs, research, legal affairs, health affairs and institutional development, and for State and federal programs administered by the State Board. In addition, the President shall be assisted by such other employees as may be needed to carry out the provisions of this Chapter, who shall be subject to the provisions of Chapter 126 of the General Statutes. The staff complement shall be established by the State Board on recommendation of the President to insure that there are persons on the staff who have the professional competence and experience to carry out the duties assigned and to insure that there are persons on the staff who are familiar with the problems and capabilities of all of the principal types of institutions represented in the system. The State Board of Community Colleges shall have all other powers, duties, and responsibilities delegated to the State Board of Education affecting the Community Colleges System Office not otherwise stated in this Chapter. (1963, c. 448, s. 23; 1971, c. 1244, s. 14; 1975, c. 699, s. 5; 1979, c. 462, s. 2; c. 896, s. 3; 1979, 2nd Sess., c. 1130, ss. 1, 2; 1981, c. 859, s. 35.2; 1983, c. 479, s. 4; c. 717, s. 26; 1983 (Reg. Sess., 1984), c. 1034, s. 164; 1985 (Reg. Sess., 1986), c. 955, ss. 19, 20; 1987, c. 564, s. 2; 1993, c. 522, s. 6; 1999-84, s. 8.)

§ 115D-4. Establishment of institutions; capital improvements.

The establishment of all community colleges shall be subject to the approval of the General Assembly upon recommendation of the State Board of Community Colleges. In no case, however, shall favorable recommendation be made by the State Board for the establishment of an institution until it has been demonstrated to the satisfaction of the State Board that a genuine educational need exists within a proposed administrative area, that existing public and private post-high school institutions in the area will not meet the need, that adequate local financial support for the institution will be provided, that public schools in the area will not be affected adversely by the

local financial support required for the institution, and that funds sufficient to provide State financial support of the institution are available.

The expenditures of any State funds for any capital improvements of existing institutions shall be subject to the prior approval of the State Board of Community Colleges and the Governor. The expenditure of State funds at any institution herein authorized to be approved by the State Board shall be subject to the terms of the State Budget Act unless specifically otherwise provided in this Chapter. (1963, c. 448, s. 23; 1965, c. 1028; 1971, c. 1244, s. 14; 1977, c. 154, s. 1; 1979, c. 462, s. 2; c. 896, s. 4; 1979, 2nd Sess., c. 1130, s. 1; 1983, c. 717, ss. 27-27.2; 1985 (Reg. Sess., 1986), c. 955, s. 21; 1987, c. 564, s. 3; 2006-203, s. 36.)

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

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

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

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

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

(e) The State Board of Community Colleges shall develop appropriate criteria and standards to regulate the operation of college transfer programs. The criteria and standards shall require all college transfer programs to continue to meet the accreditation standards of the Southern Association of Colleges and Schools.

The State Board of Community Colleges shall report annually to the General Assembly on compliance of the community colleges with these criteria and standards.

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

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

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

The State Board of Community Colleges shall establish standards and scales for salaries and allotments paid from funds administered

by the State Board, and all employees of the institutions shall be exempt from the provisions of the State Personnel Act. The State Board shall have authority with respect to individual institutions: to approve sites, capital improvement projects, budgets; to approve the selection of the chief administrative officer; to establish and administer standards for professional personnel, curricula, admissions, and graduation; to regulate the awarding of degrees, diplomas, and certificates; to establish and regulate student tuition and fees within policies for tuition and fees established by the General Assembly; and to establish and regulate financial accounting procedures.

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

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

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

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

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

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

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

this consent.

(b) In order to make instruction as accessible as possible to all citizens, the teaching of curricular courses and of noncurricular extension courses at convenient locations away from institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata portion of the established regular tuition rate charged a full-time student shall be charged a part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of Community Colleges shall establish a uniform registration fee, or a schedule of uniform registration fees, to be charged students enrolling in extension courses for which instruction is financed primarily from State funds; provided, however, that the State Board of Community Colleges may provide by general and uniform regulations for waiver of tuition and registration fees for persons not enrolled in elementary or secondary schools taking courses leading to a high school diploma or equivalent certificate, for training courses for volunteer firemen, local fire department personnel, volunteer rescue and lifesaving department personnel, local rescue and lifesaving department personnel, Radio Emergency Associated Citizens Team (REACT) members when the REACT team is under contract to a county as an emergency response agency, local law-enforcement officers, patients in State alcoholic rehabilitation centers, all full-time custodial employees of the Department of Correction, employees of the Department's Division of Community Corrections and employees of the Department of Juvenile Justice and Delinquency Prevention required to be certified under Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards Commission, trainees enrolled in courses conducted under the New and Expanding Industry Program, clients of sheltered workshops, clients of adult developmental activity programs, students in Health and Human Services Development Programs, juveniles of any age committed to the Department of Juvenile Justice and Delinquency Prevention by a court of competent jurisdiction, prison inmates, members of the North Carolina State Defense Militia as defined in G.S. 127A-5 and as administered under Article 5 of Chapter 127A of the General Statutes, and elementary and secondary school employees enrolled in courses in first aid or cardiopulmonary resuscitation (CPR). Provided further, tuition shall be waived for senior citizens attending institutions operating under this Chapter as set forth in Chapter 115B of the General Statutes, Tuition Waiver for Senior Citizens. Provided further, tuition shall also be waived for all courses taken by high school students at community colleges, including students in early college and middle college high school programs, in accordance with G.S. 115D-20(4) and this section.

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

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

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

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

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

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

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

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

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

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

(j) The State Board of Community Colleges shall use its Board Reserve Fund for feasibility studies, pilot projects, start-up of new programs, and innovative ideas. The State Board shall report to the Joint Legislative Education Oversight Committee on expenditures from the State Board Reserve Fund on January 15 and June 15 each year.

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

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

(m) The State Board of Community Colleges shall maintain an education program auditing function that conducts an annual audit of each community college operating under the provisions of this Chapter. The purpose of the annual audit shall be to ensure that college programs and related fiscal operations comply with State law, State regulations, State Board policies, and System Office guidance. The State Board of Community Colleges shall require auditors of community college programs to use a statistically valid sample size in performing program audits of community colleges. All education program audit findings shall be forwarded to the college president, local college board of trustees, the State Board of Community Colleges, and the State Auditor. The State Board shall assess a twenty-five percent (25%) fiscal penalty in addition to the audit exception on all audits of both dollars and student membership hours excepted when the audit exceptions result from nonprocessing errors.

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

(o) The General Assembly finds that additional data are needed to determine the adequacy of multicampus and off-campus center funds; therefore, multicampus colleges and colleges with off-campus centers shall report annually, beginning September 1, 2005, to the Community Colleges System Office on all expenditures by line item of funds used to support their multicampuses and off-campus centers. The Community Colleges System Office shall report on these expenditures to the Education Appropriation Subcommittees of the House of

Representatives and the Senate, the Office of State Budget and Management, and the Fiscal Research Division by October 1 of each year.

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

(q) The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee on October 1 of each year on the use of community college facilities by private businesses.

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

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

(t) The purpose of the first semester of the Gateway to College Program is to address additional support to successfully complete the program. Students may need to take developmental courses necessary for the transition to more challenging courses; therefore, the State Board of Community Colleges shall (i) permit high school students who are enrolled in Gateway to College Programs to enroll in developmental courses based on an assessment of their individual student needs by a high school and community college staff team and (ii) include this coursework in computing the budget FTE for the colleges. (1963, c. 488, s. 23; 1967, c. 652; 1969, c. 1294; 1973, c. 768; 1975, c. 882; 1977, c. 1065; 1979, c. 462, s. 2; c. 896, ss. 5-7; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 609; c. 859, s. 35.1; c. 897; c. 1127, s. 43; 1983, c. 717, s. 28; 1983 (Reg. Sess., 1984), c. 1034, ss. 45, 46; 1985, c. 479, s. 67; 1985 (Reg. Sess., 1986), c. 955, s. 22; 1987, c. 282, s. 34; c. 564, ss. 8-10, 12, 33; c. 763, s. 1; 1989, c. 162; 1989 (Reg. Sess., 1990), c. 915, s. 1; c. 1066, s. 91; 1991, c. 689, ss. 44, 48; 1991 (Reg. Sess., 1992), c. 880, s. 4; 1993, c. 170, s. 2; c. 321, ss. 111, 117(e); c. 492, s. 2; 1993 (Reg. Sess., 1994), c. 769, s. 18.4; 1995, c. 288, s. 2; c. 324, s. 16.4; 1996, 2nd Ex. Sess., c. 18, ss. 17.4, 17.7(a); 1997-443, ss. 9.5, 9.6(a), 11A.118(a); 1997-507, s. 4; 1998-111, s. 3; 1998-202, s. 4(q); 1999-84, ss. 3, 9; 1999-243, s. 9; 2000-137, s. 4(t); 2001-111, s. 1; 2001-427, s. 9(b); 2001-487, s. 47(e); 2004-124, s. 8.4; 2005-193, s. 1; 2005-198, s. 3; 2005-247, s. 3; 2005-276, ss. 8.4(a), 8.6; 2005-395, s. 25; 2006-203, s. 37; 2007-154, s. 2(a); 2007-484, ss. 29(a), 35; 2008-107, ss. 8.11, 8.17, 8.18.)

§ 115D-5.1. Workforce Development Programs.

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

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

(e) There is created within the North Carolina Community College System the Customized Training Program. The Customized Training Program shall offer programs and training services to assist new and existing business and industry to remain productive,

profitable, and within the State. Before a business or industry qualifies to receive assistance under the Customized Training Program, the President of the North Carolina Community College System shall determine that:

- (1) The business is making an appreciable capital investment;
- (2) The business is deploying new technology;
- (2a) The business or individual is creating jobs, expanding an existing workforce, or enhancing the productivity and profitability of the operations within the State; and
- (3) The skills of the workers will be enhanced by the assistance.
- (f) The State Board shall report on an annual basis to the Joint Legislative Education Oversight Committee on:
 - (1) The total amount of funds received by a company under the CIT Program;
 - (2) The amount of funds per trainee received by that company;
 - (3) The amount of funds received per trainee by the community college delivering the training;
 - (4) The number of trainees trained by the company and community college; and
 - (5) The number of years that company has been funded.

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

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

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

(g) The State Board shall adopt rules and policies to implement this section. (2005-276, s. 8.4(a), (b); 2005-445, s. 3; 2008-107, s. 8.7(a).)

§ 115D-6. Withdrawal of State support.

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

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

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

The State Board of Community Colleges shall encourage the establishment of private, nonprofit corporations to support the community

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

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

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

§ 115D-9. Reserved for future codification purposes.

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

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

Article 2.

Local Administration.

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

(a) Each community college established or operated pursuant to this Chapter shall be governed by a board of trustees consisting of 13 members, or of additional members if selected according to the special procedure prescribed by the third paragraph of this subsection, who shall be selected by the following agencies.

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

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

position or positions by appointment.

Group Three – four trustees, appointed by the Governor.

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

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

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

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

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

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

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

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

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

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

The several boards of trustees shall hold title to all real and personal property donated to their respective institutions by private persons or purchased with funds provided by the tax-levying authorities of their respective institutions. Title to equipment furnished by the State shall remain in the State Board of Community Colleges. In the event that an institution shall cease to operate, title to all real and personal property donated to the institution or purchased with funds provided by the tax-levying authorities, except as provided for in G.S. 115D-14, shall vest in the county in which the institution is located, unless the terms of the deed of gift in the case of donated property provides otherwise, or unless in the case of two or more counties forming a joint institution the contract provided for in G.S. 115D-71 provides

otherwise. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1.)

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

(a) The board of trustees of any institution organized under this Chapter may, with the prior approval of the North Carolina Community Colleges System Office, convey a right-of-way or easement for highway construction or for utility installations or modifications. When in the opinion of the board of trustees the use of any other real property owned or held by the board of trustees is unnecessary or undesirable for the purposes of the institution, the board of trustees, subject to prior approval of the State Board of Community Colleges, may sell, exchange, or lease the property. The board of trustees may dispose of any personal property owned or held by the board of trustees without approval of the State Board of Community Colleges.

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

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

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

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

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

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

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

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

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

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

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

§ 115D-17. Compensation of trustees.

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

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

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

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

§ 115D-19. Removal of trustees.

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

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

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

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

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

- (1) To elect a president or chief administrative officer of the institution for such term and under such conditions as the trustees may fix, such election to be subject to the approval of the State Board of Community Colleges.
- (2) To elect or employ all other personnel of the institution upon nomination by the president or chief administrative officer, subject to standards established by the State Board of Community Colleges. Trustees may delegate the authority of employing such other personnel to its president or chief administrative officer.
- (3) To purchase any land, easement, or right-of-way which shall be necessary for the proper operation of the institution, upon approval of the State Board of Community Colleges, and if necessary, to acquire land by condemnation in the same manner and under the same procedures as provided in General Statutes Chapter 40A. For the purpose of condemnation, the determination by the trustees as to the location and amount of land to be taken and the necessity therefor shall be conclusive.
- (4) To apply the standards and requirements for admission and graduation of students and other standards established by the State Board of Community Colleges. Provided, notwithstanding any law or administrative rule to the contrary, local administrative boards and local school boards may establish cooperative programs in the areas they serve to provide for college courses to be offered to qualified high school students with college credits to be awarded to those high school students upon the successful completion of the courses. Provided, further, that during the summer quarter, persons less than 16 years old may be permitted to take noncredit courses on a self-supporting basis, subject to rules of the State Board of Community Colleges.
- (5) To receive and accept donations, gifts, bequests, and the like from private donors and to apply them or invest any of them and apply the proceeds for purposes and upon the terms which the donor may prescribe and which are consistent with the provisions of this Chapter and the regulations of the State Board of Community Colleges.
- (6) To provide all or part of the instructional services for the institution by contracting with other public or private organizations or institutions in accordance with regulations and standards adopted by the State Board of Community Colleges.
- (7) To perform such other acts and do such other things as may be necessary or proper for the exercise of the foregoing specific powers, including the adoption and enforcement of all reasonable rules, regulations, and bylaws for the government and operation of the institution under this Chapter and for the discipline of students.

- (8) If a board of trustees of an institution provides access to its buildings and campus and the student information directory to persons or groups which make students aware of occupational or educational options, the board of trustees shall provide access on the same basis to official recruiting representatives of the military forces of the State and of the United States for the purpose of informing students of educational and career opportunities available in the military.
- (9) To encourage the establishment of private, nonprofit corporations to support the institution. The president, with approval of the board of trustees, may assign employees to assist with the establishment and operation of such corporation and may make available to the corporation office space, equipment, supplies and other related resources; provided, the sole purpose of the corporation is to support the institution. The board of directors of each private, nonprofit corporation shall secure and pay for the services of the State Auditor's Office or employ a certified public accountant to conduct an annual audit of the financial accounts of the corporation. The board of directors shall transmit to the board of trustees a copy of the annual financial audit report of the private nonprofit corporation.
- (10) To enter into guaranteed energy savings contracts pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.
- (10a) To enter into loan agreements under the Energy Improvement Loan Program pursuant to Part 3 of Article 36 of Chapter 143 of the General Statutes.
- (11) To enter into lease purchase and installment purchase contracts for equipment under G.S. 115D-58.15.
- (12) Notwithstanding the provisions of this Chapter, a community college may permit the use of its personnel or facilities, in support of or by a private business enterprise located on a community college campus or in the service area of a community college for the specific purposes set out in G.S. 66-58(c)(3a) and G.S. 66-58(c)(3d). The board of trustees of a community college must specifically approve any use of facilities or personnel under this subdivision. The State Board shall adopt rules to implement this subdivision, G.S. 66-58(c)(3a), and G.S. 66-58(c)(3d).
- (13) To enter into a public/private partnership in which all of the following conditions are met:
 - a. The agreement is approved in advance by the State Board of Community Colleges.
 - b. The board of trustees agrees to lease community college land to a private entity on condition that the entity construct a facility on the leased land.
 - c. The facility will be jointly owned and used by the private entity and the community college.
 - d. The board of trustees is not authorized to lease the facility as lessee under a long-term lease or capital lease from the private entity as lessor.
 - e. The board of trustees is not authorized to finance its portion of the facility by entering into an installment contract or other financing contract with the private entity.
 - f. State bond funds shall not be used to pay for construction of that part of the facility to be owned and used by the private entity.
 - g. The provisions of G.S. 143-341(3)a. apply to the construction of a facility under this subsection.
- (14) To comply with the design and construction requirements regarding energy efficiency and water use in the Sustainable Energy-Efficient Buildings Program under Article 8C of Chapter 143 of the General Statutes. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 901, s. 2; 1983, c. 378, s. 1; c. 596, s. 1; 1985, c. 191; 1987, c. 383, s. 2; 1993 (Reg. Sess., 1994), c. 775, s. 7; 1998-111, s. 1; 2001-368, s. 2; 2003-286, s. 1; 2005-247, s. 2;

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

- (a) As used in this section:
- (1) "Tobacco product" includes cigarettes, cigars, blunts, bidis, pipes, chewing tobacco, snus, snuff, and any other items containing or reasonably resembling tobacco or tobacco products.
 - (2) "Tobacco use" includes smoking, chewing, dipping, or any other use of tobacco products.
- (b) Local community college boards of trustees may adopt, implement, and enforce a written policy prohibiting at all times the use of any tobacco product by any person in community college buildings, in community college facilities, on community college campuses, in vehicles owned, leased, or operated by the local community college, and in or on any other community college property owned, leased, or operated by the local community college. The policy may also prohibit the use of all tobacco products by persons attending a community college-sponsored event.
- (c) The policy adopted by a local community college board of trustees may include the following elements:
- (1) Adequate notice of the policy to students, parents, the public, and school personnel.
 - (2) Posting of signs prohibiting at all times the use of tobacco products by any person in and on community college property.
 - (3) Requirements that community college personnel develop plans for successful implementation of and compliance with the policy.
 - (4) Permission for tobacco products to be included in instructional or research activities in community college buildings if the activity is conducted or supervised by the faculty member overseeing the instruction or research and the activity does not include smoking, chewing, or otherwise ingesting the tobacco product.
- (d) Nothing in G.S. 130A-498, G.S. 143-595 through G.S. 143-601, or any other section prohibits a local community college board of trustees from adopting and enforcing a more restrictive policy on the use of tobacco in community college buildings, in community college facilities, on community college campuses, or at community college-related or community college-sponsored events, and in or on other community college property.
- (e) The North Carolina Tobacco Prevention and Control Branch and the Health and Wellness Trust Fund Commission shall work with local community college boards of trustees to provide assistance with the development and implementation of the policy including providing information regarding smoking cessation and prevention resources. (2008-95, ss. 2, 3.)

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

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

Carolina Community College System.

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

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

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

(c) The trustees may by rules, regulations, or ordinances provide for a system of registration of all motor vehicles where the owner or operator does park on the campus or keeps said vehicle on the campus. The trustees shall cause to be posted at appropriate places on campus notice to the public of applicable parking and traffic rules, regulations, and ordinances governing the campus over which it has jurisdiction. The trustees may by rules, regulations, or ordinances establish or cause to have established a system of citations that may be issued to owners or operators of motor vehicles who violate established rules, regulations, or ordinances. The trustees shall provide for the administration of said system of citations; establish or cause to be established a system of fines to be levied for the violation of established rules, regulations and ordinances; and enforce or cause to be enforced the collection of said fines. The fine for each offense shall not exceed five dollars (\$5.00), which funds shall be retained in the institution and expended in the discretion of the trustees. The trustees shall be empowered to exercise the right to prohibit repeated violators of such rules, regulations, or ordinances from parking on the campus. (1971, c. 795, ss. 1-3; 1979, c. 462, s. 2; 1983, c. 420, s. 4; 1985, c. 764, s. 38.)

§ 115D-21.1. Campus law enforcement agencies.

(a) The board of trustees of any community college may establish a campus law enforcement agency and employ campus police

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

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

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

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

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

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

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

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

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

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

The board of trustees of any institution, by obtaining liability insurance as provided in G.S. 115D-53, is authorized to waive its governmental immunity from liability for the death or injury of person or for property damage caused by the negligence or tort of any agent or employee of the board of trustees when the agent or employee is acting within the scope of his authority or the course of his

employment. All automobiles, buses, trucks, or other motor vehicles intended primarily for use on the public roads and highways which are the property of a board of trustees shall be insured at all times with liability insurance as provided in G.S. 115D-53. Governmental immunity shall be deemed to have been waived by the act of obtaining liability insurance, but only to the extent that the board is indemnified for the negligence or torts of its agents and employees and only as to claims arising after the procurement of liability insurance and while such insurance is in force. (1963, c. 448, s. 23; 1979, c. 462, s. 2.)

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

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

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

§ 115D-25.1. Dependent care assistance program.

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

§ 115D-25.2. Flexible Compensation Plan.

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

§ 115D-25.3. Voluntary shared leave.

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

§ 115D-26. Conflict of interest.

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

Article 2A.

Privacy of Employee Personnel Records.

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

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

employment wherever located or in whatever form. (1991, c. 84. s. 3.)

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

Each board of trustees shall maintain a record of each of its employees, showing the following information with respect to each employee: name, age, date of original employment or appointment, the terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the board has the written contract or a record of the oral contract in its possession, current position, title, current salary, date and amount of most recent increase or decrease in salary, date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification, and the office or station to which the employee is currently assigned. For the purposes of this section, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity. Subject only to rules and regulations for the safekeeping of records adopted by the board of trustees, every person having custody of the records shall permit them to be inspected and examined and copies made by any person during regular business hours. Any person who is denied access to any record for the purpose of inspecting, examining or copying the record shall have a right to compel compliance with the provisions of this section by application to a court of competent jurisdiction for a writ of mandamus or other appropriate relief. (1991, c. 84, s. 3; 2007-508, s. 2.)

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

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

- (1) The employee, applicant for employment, former employee, or his properly authorized agent, who may examine his own personnel file at all reasonable times in its entirety except for letters of reference solicited prior to employment;
- (2) The president and other supervisory personnel;
- (3) Members of the board of trustees and the board's attorney;
- (4) A party by authority of a subpoena or proper court order may inspect and examine a particular confidential portion of an employee's personnel file; and
- (5) An official of an agency of the federal government, State government or any political subdivision thereof. Such an official may inspect any personnel records when such [an] inspection is deemed by the college of the employee, applicant, or former employee whose record is to be inspected as necessary and essential to the pursuance of a proper function of said agency; provided, however, that such information shall not be divulged for purposes of assisting in a criminal prosecution, nor for purposes of assisting in a tax investigation.

(b) Notwithstanding any other provision of this Article, any president may, in his discretion, or shall at the direction of the board of trustees, inform any person or corporation of any promotion, demotion, suspension, reinstatement, transfer, separation, dismissal, employment or nonemployment of any applicant, employee or former employee employed by or assigned to the board of trustees or whose personnel file is maintained by the board and the reasons therefor and may allow the personnel file of the person or any portion to be inspected and examined by any person or corporation provided that the board has determined that the release of the information or the inspection and examination of the file or any portion is essential to maintaining the integrity of the board or to maintaining the level or quality of services provided by the board; provided, that prior to releasing the information or making the file or any portion available as

provided herein, the president shall prepare a memorandum setting forth the circumstances which he and the board deem to require the disclosure and the information to be disclosed. The memorandum shall be retained in the files of the president and shall be a public record.

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

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

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

Article 3.

Financial Support.

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

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

- (1) Plant Fund. – Furniture and equipment for administrative and instructional purposes, library books, and other items of capital outlay approved by the State Board. Provided, the State Board may, on an equal matching-fund basis from appropriations made by the State for the purpose, grant funds to individual institutions for the purchase of land, construction and remodeling of institutional buildings determined by the State Board to be necessary for the instructional programs or administration of such institutions. For the purpose of determining amount of matching State funds, local funds shall include expenditures made prior to the enactment of this Chapter or prior to an institution becoming a community college pursuant to the provisions of this Chapter, when such expenditures were made for the purchase of land, construction, and remodeling of institutional buildings subsequently determined by the State Board to be necessary as herein specified, and provided such local expenditures have not previously been used as the basis for obtaining matching State funds under the provisions of this Chapter or any other laws of the State. Notwithstanding the provisions of this subdivision, G.S. 116-53(b), or G.S. 143C-4-5, appropriations by the State of North Carolina for capital or permanent improvements for community colleges may be matched with any prior expenditure of non-State funds for capital construction or land acquisition not already used for matching purposes.
- (2) Current Operating Expenses:
 - a. General administration. – Salaries and other costs as determined by the State Board necessary to carry out the functions of general administration.
 - b. Instructional services. – Salaries and other costs as determined by the State Board necessary to carry out the

functions of instructional services.

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

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

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

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

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

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

(e) If receipts for community college tuition and fees exceed the amount certified in General Fund Codes at the end of a fiscal year, the State Board of Community Colleges shall transfer the amount of receipts and fees above those budgeted to the Equipment Reserve Fund. (1963, c. 448, s. 23; 1973, c. 590, ss. 2, 3; c. 637, s. 1; 1979, c. 462, s. 2; c. 896, s. 13; c. 946, s. 1; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 157, s. 2; 1985, c. 757, s. 146; 1987, c. 564, ss. 9, 12; 1995, c. 324, s. 16; 1998-212, s. 10.2(a); 1999-84, s. 11; 1999-237, s. 9.3(a); 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2006-203, s. 38.)

§ 115D-31.1. Liability insurance.

Notwithstanding the provisions of G.S. 115D-32(a)(2)b2 and any other provision of the law to the contrary, boards of trustees of all

institutions in this Chapter may use State funds to pay the lawful premiums of liability insurance as provided in this section. (1983, c. 761, s. 105.)

§ 115D-31.2. Maintenance of plant.

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

§ 115D-31.3. Institutional performance accountability.

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

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

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

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

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

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

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

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

(h) Recognition for Exceptional Institutional Performance. – Funds not allocated to colleges in accordance with subsection (g) of

this section shall be used to reward exceptional institutional performance. After all State aid budget obligations have been met, the State Board of Community Colleges shall distribute the remainder of these funds equally to colleges that perform successfully on eight performance standards and meet the following criteria:

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

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

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

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

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

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

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

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

- (1) **Plant Fund:** Acquisition of land; erection of all buildings; alterations and additions to buildings; purchase of automobiles, buses, trucks, and other motor vehicles; purchase or rental of all equipment necessary for the maintenance of buildings and grounds and operation of plants; and purchase of all furniture and equipment not provided for administrative and instructional purposes.
- (2) **Current expenses:**
 - a. **Plant operation and maintenance:**
 1. Salaries of janitors, maids, watchmen, maintenance and repair employees.

2. Cost of fuel, water, power, and telephone services.
 3. Cost of janitorial supplies and materials.
 4. Cost of operation of motor vehicles.
 5. Cost of maintenance and repairs of buildings and grounds.
 6. Maintenance and replacement of furniture and equipment provided from local funds.
 7. Maintenance of plant heating, electrical, and plumbing equipment.
 8. Maintenance of all other equipment, including motor vehicles, provided by local funds.
 9. Rental of land and buildings.
 10. Any other expenses necessary for plant operation and maintenance.
- b. Support services:
1. Cost of insurance for buildings, contents, motor vehicles, workers' compensation for institutional employees paid from local funds, and other necessary insurance.
 2. Any tort claims awarded against the institution due to the negligence of the institutional employees.
 3. Cost of bonding institutional employees for the protection of local funds and property.
 4. Cost of elections held in accordance with G.S. 115D-33 and 115D-35.
 5. Legal fees incurred in connection with local administration and operation of the institution.

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

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

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

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

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

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

held for that purpose. All bonds shall be subject to the Local Government Finance Act (Chapter 159) and shall be issued pursuant to Subchapter IV, Long-Term Financing, (§ 159- 43 et seq.) of Chapter 159 of the General Statutes.

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

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

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

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

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

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

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

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

115D-33(d) and the appropriate provisions of G.S. 115D-35.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 115D-39. Student tuition and fees.

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

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

The legal resident limitation with respect to tuition, set forth in G.S. 116-143.1 and G.S. 116-143.3, shall apply to students attending institutions operating pursuant to this Chapter; provided, however, that when an employer other than the armed services, as that term is defined in G.S. 116-143.3, pays tuition for an employee to attend an institution operating pursuant to this Chapter and when the employee

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

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

(c) In addition, a person sponsored under this subsection who is lawfully admitted to the United States is eligible for the State resident community college tuition rate. For purposes of this subsection, a North Carolina nonprofit entity is a charitable or religious corporation as defined in G.S. 55A-1-40 that is incorporated in North Carolina and that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code, or a civic league incorporated in North Carolina under Chapter 55A of the General Statutes that is exempt from taxation under section 501(c)(4) of the Internal Revenue Code. A nonresident of the United States is sponsored by a North Carolina nonprofit entity if the student resides in North Carolina while attending the community college and the North Carolina nonprofit entity provides a signed affidavit to the community college verifying that the entity accepts financial responsibility for the student's tuition and any other required educational fees. Any North Carolina nonprofit entity that sponsors a nonresident of the United States under this subsection may sponsor no more than five nonresident students annually under this subsection. This subsection does not make a person a resident of North Carolina for any other purpose. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 157, s. 4; 1983 (Reg. Sess., 1984), c. 1034, s. 58; 1989, c. 752, s. 85; 1991 (Reg. Sess., 1992), c. 1044, s. 25(a); 1993, c. 561, s. 50(a); 1996, 2nd Ex. Sess., c. 18, s. 17.1(a); 2000-67, s. 9.8; 2003-284, ss. 8.16(b), 8.16A(a).)

§ 115D-39.1. Tuition surcharge.

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

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

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

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

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

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

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

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

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

- (1) Students who do not qualify for need-based assistance but who enroll in low-enrollment programs that prepare students for high-demand occupations, and
- (2) Students with disabilities who have been referred by the Division of Vocational Rehabilitation and are enrolled in a community college.

(c) Administration of Program. – The State Board shall adopt rules and policies for the disbursement of the financial assistance provided in this section. Degree, diploma, and certificate students must complete a Free Application for Federal Student Aid (FAFSA) to be eligible for financial assistance. The State Board may contract with the State Education Assistance Authority for administration of these financial assistance funds. These funds shall not revert at the end of each fiscal year but shall remain available until expended for need-based financial assistance.

The State Board shall ensure that at least one counselor is available at each college to inform students about federal programs and funds available to assist community college students including, but not limited to, Pell Grants and HOPE and Lifetime Learning Tax Credits and to actively encourage students to utilize these federal programs and funds. (1999-237, ss. 9.4(a), 9.4(b); 2001-229, ss. 1, 2; 2003-52, s. 1; 2003-385, s. 1.)

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

(a) Community college contracts with local school administrative units shall not be used by these agencies to supplant funding for a public school high school teacher providing courses offered pursuant to G.S. 115D-20(4) who is already employed by the local school administrative unit. However, if a community college contracts with a local school administrative unit for a public high school teacher to teach a college level course, the community college shall not generate budget FTE for that course. Its reimbursement in this case shall be limited to the direct instructional costs contained in the contract, plus fifteen percent (15%) for administrative costs. In no event shall a community college contract with a local school administrative unit to provide high school level courses.

(b) Community college facilities that comply with applicable State, county, and local fire codes for community college facilities may be used without modification for public school students in joint or cooperative programs such as middle or early college programs and dual enrollment programs. (1991 (Reg. Sess., 1992), c. 900, s. 82(a); 2006-66, s. 8.11(a); 2006-221, s. 5.)

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

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

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

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

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

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

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

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

§§ 115D-43 through 115D-44. Reserved for future codification purposes.

Article 4.

Budgeting, Accounting, and Fiscal Management.

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

Article 4A.

Budgeting, Accounting, and Fiscal Management.

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

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

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

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

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

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

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

(e) "Trust and Agency Fund" means funds held by an institution as custodian or fiscal agent for others such as student organizations, individual students, or faculty members. Trust and agency funds need not be budgeted. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13;

1979, 2nd Sess., c. 1130, s. 1; 1981, c. 157, s. 1; 2001-112, s. 1; 2007-484, s. 29(c).)

§ 115D-55. Budget management.

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

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

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

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

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

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

§ 115D-56. Final adoption of budget.

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

§ 115D-57. Interim budget.

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

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

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

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

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

§ 115D-58.1. Federal contracts and grants.

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

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

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

(b) Funds received by the trustees of an institution from insurance payments for loss or damage to buildings shall be used for the repair or replacement of such buildings, or, if the buildings are not repaired or replaced, to reduce proportionally the institutional indebtedness borne by the counties of the administrative area of the institution receiving the insurance payments. If such payments, which are not used to repair or replace institutional buildings, exceed the total institutional indebtedness borne by all counties of the administrative area, such excess funds shall remain to the credit of the institution and shall be applied to the next succeeding plant fund budget until the excess funds shall be expended. Funds received by the trustees of an institution for loss or damage to the contents of buildings shall be divided between the board of trustees and the State Board of Community Colleges in proportion to the value of the lost

contents owned by the board of trustees and the State, respectively. Until these funds shall have been expended, they shall either be used for repair or replacement of lost contents or be credited to the institution for succeeding plant and current expense budgets as appropriate. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 157, s. 1.)

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

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

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

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

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

§ 115D-58.5. Accounting system.

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

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

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

(d) Repealed by Session Laws 1983, c. 913, s. 18. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1;

1981, c. 157, s. 1; 1983, c. 913, s. 18; 1998-68, s. 1; 1999-84, s. 14; 2000-67, s. 7(c).)

§ 115D-58.6. Investment of idle cash.

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

(b) Moneys may be deposited at interest in any bank, savings and loan association or trust company in this State in the form of certificates of deposit or such other forms of time deposits as may be approved for county governments. In addition, moneys may be deposited in the form of certificates of deposit as provided for a local government or public authority in G.S. 159-30(b1). Investment deposits shall be secured as provided in G.S. 159-31(b).

(c) Moneys may be invested in the form of investments pursuant to G.S. 159-30(c) to county governments and no others. Money in endowment funds may be invested pursuant to G.S. 147-69.2. Provided, however, the institution may elect to deposit at interest any local funds with the State Treasurer for investment as special trust funds pursuant to the provisions of G.S. 147-69.3, and the interest thereon shall accrue to the institution as local funds.

(d) Investment securities may be bought, sold, and traded by private negotiation, and the institutions may pay all incidental costs thereof and all reasonable costs of administering the investment and deposit program from local funds. The institution shall be responsible for their safekeeping and for keeping accurate investment accounts and records.

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

(f) Registered securities acquired for investment may be released from registration and transferred by signature of the official designated by the board of trustees. (1981, c. 157, s. 1; c. 612, s. 1; 2005-394, s. 3.)

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

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

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

§ 115D-58.8. Facsimile signatures.

The board of trustees may provide by appropriate resolution for the use of facsimile signature machines, signature stamps, or similar devices in signing checks and drafts. The board shall charge some bonded officer or employee with the custody of the necessary machines, stamps, plates, or other devices, and that person and the sureties on his official bond are liable for any illegal, improper, or unauthorized use of them. Rules and regulations governing the use and control of the facsimile signature shall be adopted by the State Board of Community Colleges. (1981, c. 157, s. 1.)

§ 115D-58.9. Daily deposits.

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

§ 115D-58.10. Surety bonds.

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 115D-58.13. Vending facilities.

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

§ 115D-58.14. Purchasing flexibility.

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

- (1) The purchase price, including the cost of delivery, is less than the cost under the State term contract; and
- (2) The cost of the purchase shall not exceed the bid value benchmark established under G.S. 143-53.1.

(b) The State Board of Community Colleges and the Department of Administration shall adopt policies and procedures for monitoring the implementation of this section. (1998-68, s. 2; 2005-103, s. 5.)

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

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

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

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

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

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

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

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

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

§ 115D-58.16. Reserved for future codification purposes.

§ 115D-58.17. Reserved for future codification purposes.

Article 5.

Special Provisions.

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

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

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

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

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

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

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

§ 115D-62. Trustee Association Regions.

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

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

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

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

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

Region 5: The counties of Bladen, Brunswick, Carteret, Craven, Columbus, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow,

Pamlico, Pender, Sampson, and Wayne.

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

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

Article 5A.

North Carolina Center for Applied Textile Technology at Gaston College.

§ 115D-67.1. Purpose of the Center.

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

§ 115D-67.2. Advisory Board.

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

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

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

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

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

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

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

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

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

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

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

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

Notwithstanding any other provision of law, all fees collected by the Applied Textile Technology Center for services to the textile industry, except for regular curriculum and continuing education tuition receipts, shall be retained by the Center and used for the operations of the Center. Purchases made by the Center using these funds are not subject to the provisions of Article 3 of Chapter 143 of the General Statutes. (2005-103, s. 3.)

Article 6.

Textile Training School.

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

Article 6A.

Motorcycle Safety Instruction.

§ 115D-72. Motorcycle Safety Instruction Program.

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

(b) The Motorcycle Safety Instruction Program shall be implemented through the Community Colleges System Office at institutions which choose to provide the Program. The motorcycle safety coordinator shall select and facilitate the training and certification of

instructors who will implement the Program. (1989, c. 755, s. 1; 1993, c. 320, s. 5; 1999-84, s. 15.)

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

Article 7.

Miscellaneous Provisions.

§ 115D-77. Nondiscrimination policy.

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

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

§ 115D-78. Access to information and public records.

In accordance with Chapter 132 of the General Statutes, all rules, regulations and public records of the State Board of Community Colleges, the Community Colleges System Office, and local boards of trustees shall be available for examination and reproduction on payment of fees by any person. (1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1999-84, s. 16.)

§ 115D-79. Open meetings.

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

§ 115D-80. Administrative Procedure Act applies.

As an agency of the State, the State Board of Community Colleges is subject to the Administrative Procedure Act, Chapter 150B of the General Statutes. Local boards of trustees are exempt from Chapter 150B. (1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1987, c. 827, s. 17.)

§ 115D-81. Saving clauses.

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

(b) Existing Rights and Liabilities. – The provisions of this Chapter shall not affect any act done, liability incurred or right accrued or vested, or affect any suit or prosecution pending or to be instituted to enforce any right or penalty or punish any offense under the

authority of statutes repealed by the act enacting this Chapter. (1979, c. 462, s. 2.)

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

Article 8.

Proprietary Schools.

§ 115D-87. Definitions.

As used in this Article:

- (1) "Correspondence school" means an educational institution privately owned and operated by an owner, partnership or corporation conducted for the purpose of providing, by correspondence, for a consideration, profit, or tuition, systematic instruction in any field or teaches or instructs in any subject area through the medium of correspondence between the student and the school, usually through printed or typewritten matter sent by the school and written responses by the student.
- (2) "Persons" means any individual, association, partnership or corporation, and includes any receiver, referee, trustee, executor, or administrator as well as a natural person.
- (3) "Proprietary business school" or "business school" means an educational institution that (i) is privately owned and operated by an owner, partnership or corporation, and (ii) offers business and office related courses for which tuition is charged, in business or office related subjects or subjects of general education when they contribute value to the objective of the course of study. If a school offers classes in more than one county, the school's operations in each such county shall constitute a separate school, as defined in this subdivision.
- (4) "Proprietary trade school" or "trade school" means an educational institution that (i) is privately owned and operated by an owner, partnership or corporation, and (ii) offers classes conducted for the purpose of teaching, for profit or for a tuition charge, any trade, mechanical or industrial occupation or teaching any or several of the subjects needed to train youths or adults in the skills, knowledge and subjects, related industrial information, and job judgment, necessary for success in one or more skilled trades, industrial occupations or related occupations. If a school offers classes in more than one county, the school's operations in each such county shall constitute a separate school, as defined in this subdivision.
- (5) "Proprietary technical school", "technical school", "proprietary technical institute", or "technical institute" means an educational institution that (i) is privately owned and operated by an owner, partnership or corporation, and (ii) offers classes conducted for the purpose of teaching, for profit or for a tuition charge, any technical occupation or teaching any or several of the subjects needed to train youths or adults in the skills, technical knowledge and subjects, related information, and job judgment, necessary for success in one or more technical or related occupations. If a school offers classes in more than one county, the school's operations in each such county shall constitute a separate school, as defined in this subdivision. (1955, c. 1372, art. 30, ss. 1, 2; 1957, c. 1000; 1961, c. 1175, s. 1; 1981, c. 423, s. 1; 1987, c. 442, s. 2; 1989 (Reg. Sess., 1990), c. 877, s. 1; 1993, c. 553, s. 32.2.)

§ 115D-88. Exemptions.

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

- (1) Nonprofit schools conducted by bona fide eleemosynary or religious institutions.
- (2) Schools maintained or classes conducted by employers for their own employees where no fee or tuition is charged to the student.
- (3) Courses of instruction given by any fraternal society, civic club, or benevolent order, which courses are not operated for profit.
- (4) Any school for which there is another legally existing licensing or approving board or agency in this State.
- (4a) Classes or schools that are equipment-specific to purchasers, users, classes, or schools offering training or instruction to acquaint purchasers or users with equipment capabilities.
- (4b) Classes or schools that are taught or coached in homes or elsewhere to five or fewer students.
- (4c) Classes or schools that the State Board, acting by and through the President of the Community College System, determines are avocational, recreational, self-improvement, or continuing education for already trained and occupationally qualified individuals.
- (5) Any established university, professional, or liberal arts college, public or private school regulated or recognized pursuant to Chapter 115C of the General Statutes or by any other State Agency, or any State institution which has heretofore offered, or which may hereinafter offer one or more courses covered in this Article: Provided, that the tuition fees and charges, if any, made by such university, college, high school, or State institution shall be collected by their regular officers in accordance with the rules prescribed by the board of trustees or governing body of such university, college, high school, or State institution; but provisions of the Article shall apply to all business schools, proprietary trade schools, proprietary technical schools, or correspondence schools as defined in this Article, and operated within the State of North Carolina as such institutions, except schools for which there are other legally existing licensing boards or agencies. (1955, c. 1372, art. 30, ss. 1, 2; 1957, c. 1000; 1961, c. 1175, s. 2; 1981, c. 423, s. 1; 1983, c. 768, s. 10; 1987, c. 442, s. 2; 1989 (Reg. Sess., 1990), c. 877, s. 2.)

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

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

(b) Any such proprietary business school, proprietary trade school, proprietary technical school, or correspondence school, may by and with the approval of the State Board issue certificates and diplomas.

(c) The State Board, acting by and through the President of the Community College System, shall formulate the criteria and the

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

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

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

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

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

- (1) The title or name of the school or classes, together with the name and address of the owners and of the controlling officers thereof.
- (2) The general field of instruction.
- (3) The place or places where such instruction will be given.
- (4) A specific listing of the equipment available for instruction in each field.
- (5) The qualifications of instructors and supervisors.
- (6) Financial resources available to equip and to maintain the school or classes.
- (7) Such additional information as the State Board, acting by and through the President of the Community College System, may deem necessary to enable it to determine the adequacy of the program of instruction and matters pertaining thereto.

Each application shall be accompanied by a copy of the current bulletin or catalog of the school which shall be in published form and certified by an authorized official of the school as being current, true, and correct in content and policy. The school bulletin shall contain the following information:

- a. Identifying data, such as volume number and date of publication.
- b. Names of the institution and its governing body, officials and faculty.
- c. A calendar of the institution showing legal holidays, beginning and ending date of each quarter, term or semester, and other important dates.
- d. Institution's policy and regulations relative to leave, absences, class cuts, make-up work, tardiness and interruptions for unsatisfactory attendance.
- e. Institution's policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course.
- f. Institution's policy and regulations relative to standards of progress required of the student by the institution. This policy will define the grading system of the institution; the minimum grades considered satisfactory; conditions for interruption for unsatisfactory grades or progress and description of the probationary period, if any, allowed by the institution; and conditions of reentrance for those students dismissed for unsatisfactory progress. A statement will be made regarding progress records kept by the institution and furnished the student.
- g. Institution's policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct.
- h. Detailed schedule for fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges.
- i. Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom.
- 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 President of the Community College System, as provided herein, a license shall be granted to the applicant when it is shown to the satisfaction of said Board that said applicant, school, programs of study or courses are found to have met the following criteria:

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

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

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

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

- (a) All licenses issued shall expire on June 30 next following the date of issuance.
- (b) Licenses shall be renewable annually on July 1: Provided, an application for the renewal of the license has been filed in the form and manner prescribed by the State Board, acting by and through the President of the Community College System, and the renewal fee has been paid: Provided, further that the school and its courses, facilities, faculty and all other operations are found to meet the criteria set forth in the requirements for a school to secure an original license.
- (c) After a license is granted to any school by the State Board of Community Colleges on the basis of its application, it shall be the responsibility of said school to notify immediately said Board of any changes in the ownership, administration, location, faculty, the instructional program or other changes as may affect significantly the course of instruction offered.
- (d) In the event of the sale of such school, the license already granted to the original owner or operators thereof shall not be transferable to the new ownership or operators. Provided, however, the President of the Community College System may issue a 90-day, temporary operating license to a school upon its sale if the school held a valid, current license prior to the sale, and if the President finds

that the school is likely to qualify after the sale for a license under this Article. (1955, c. 1372, art. 30, s. 4; 1957, c. 1000; 1961, c. 1175, s. 5; 1981, c. 423, s. 1; 1987, c. 442, ss. 1, 2; 1989 (Reg. Sess., 1990), c. 877, s. 5.)

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

The State Board of Community Colleges shall establish reasonable fees for licenses, renewals, and approvals granted, and for inspections performed pursuant to this Article.

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

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

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

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

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

- (1) That the applicant for or holder of such a license has violated any of the provisions of this Article or any of the rules promulgated thereunder.
- (2) That the applicant for or holder of such a license has knowingly presented to the State Board of Community Colleges false or misleading information relating to approval or license.
- (3) That the applicant for or holder of such a license has failed or refused to permit authorized representatives of the State Board of Community Colleges to inspect the school, or has refused to make available to them at any time upon request full information pertaining to matters within the purview of the State Board of Community Colleges under the provisions of this Article.
- (4) That the applicant for or holder of such a license has perpetrated or committed fraud or deceit in advertising the school or in presenting to the prospective students written or oral information relating to the school, to employment opportunities, or to opportunities for enrollment in other institutions upon completion of the instruction offered in the school.
- (5) That the applicant or licensee has pleaded guilty, entered a plea of nolo contendere or has been found guilty of a crime involving moral turpitude by a judge or jury in any state or federal court.
- (6) That the applicant or licensee has failed to provide or maintain premises, equipment or conditions which are adequate, safe and sanitary, in accordance with such standards of the State of North Carolina or any of its political subdivisions, as are applicable to such premises and equipment.
- (7) That the licensee is employing teachers, supervisors or administrators who have not been approved by the State Board, acting by and through the President of the Community College System.

- (8) That the licensee has failed to provide and maintain adequate premises, equipment, materials or supplies, or has exceeded the maximum enrollment for which the school or class was licensed.
- (9) That the licensee has failed to provide and maintain adequate standards of instruction or an adequate and qualified administrative, supervisory or teaching staff. (1961, c. 1175, s. 7; 1973, c. 1331, s. 3; 1981, c. 423, s. 1; 1987, c. 442, ss. 1, 2, c. 827, s. 53; 1989 (Reg. Sess., 1990), c. 877, s. 7.)

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

§ 115D-95. Bonds required.

(a) A guaranty bond is required for each school that is licensed to operate: Provided, however, a school that is unable to secure a bond may, with the consent of the State Board of Community Colleges, provide an alternative to a guaranty bond, as provided in subsection (c) of this section.

The State Board may revoke the license of a school that fails to maintain a bond or an alternative to a bond, pursuant to this section.

(b) (1) When application is made for a license or license renewal, the applicant shall file a guaranty bond with the clerk of the superior court of the county in which the school will be located. The bond shall be in favor of the students. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to any student, or his parent or guardian, who has suffered a loss of tuition or any fees by reason of the failure of the school to offer or complete student instruction, academic services, or other goods and services related to course enrollment for any reason, including the suspension, revocation, or nonrenewal of a school's license, bankruptcy, foreclosure, or the school ceasing to operate.

(2) The bond shall be in an amount determined by the State Board of Community Colleges to be adequate to provide indemnification to any student, or his parent or guardian, under the terms of the bond. The bond amount for a school shall be at least equal to the maximum amount of prepaid tuition held at any time during the last fiscal year by the school. The bond amount shall also be at least ten thousand dollars (\$10,000).

Each application for a license shall include a letter signed by an authorized representative of the school showing in detail the calculations made and the method of computing the amount of the bond, pursuant to this subdivision and the rules of the State Board. If the State Board finds that the calculations made and the method of computing the amount of the bond are inaccurate or that the amount of the bond is otherwise inadequate to provide indemnification under the terms of the bond, the State Board may require the applicant to provide an additional bond.

(3) The bond shall remain in force and effect until cancelled by the guarantor. The guarantor may cancel the bond upon 30 days notice to the State Board of Community Colleges. Cancellation of the bond shall not affect any liability incurred or accrued prior to the termination of the notice period.

(c) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the State Board of Community Colleges and approval of one of the guaranty bond alternatives set forth in this subsection. With the approval of the State Board, an applicant may file with the clerk of the superior court of the county in which the school will be located, in lieu of a bond:

(1) An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the State

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

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

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

Any person, or each member of any association of persons or each officer of any corporation who opens and conducts a proprietary business school, a proprietary technical school, a proprietary trade school, or a correspondence school, without first having obtained the license herein required, and without first having executed the bond required, shall be guilty of a Class 3 misdemeanor, and each day said school continues to be open and operated shall constitute a separate offense. (1955, c. 1372, art. 30, s. 7; 1957, c. 1000; 1961, c. 1175, s. 10; 1981, c. 423, s. 1; 1987, c. 442, s. 2; 1989 (Reg. Sess., 1990), c. 877, s. 8; 1993, c. 539, s. 894; 1994, Ex. Sess., c. 24, s. 14(c).)

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

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