

FAILED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 257

AMENDMENT NO. A48
(to be filled in by
Principal Clerk)

S257-AMCfa-20 [v.1]

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Amends Title [NO]
Second Edition

Date April 16th, 2025

Senator Garrett

moves to amend the bill on page 250, lines 49-50, by inserting the following between those lines:

"SMALL BUSINESS CAPITAL ACCESS ACT

SECTION 11.3B.(a) Notwithstanding any provision of law or of the Committee Report described in Section 45.2 of this act to the contrary, there is appropriated the recurring sum of fifty million dollars (\$50,000,000) from the General Fund to the Department of Commerce for the 2025-2026 fiscal year to establish and implement the North Carolina Small Business Capital Access Program established in subsection (b) of this section. Funds appropriated by this section shall not revert but shall remain available until expended. The Department shall allocate the funds as follows:

- (1) \$20,000,000 to the Small Business Loan Guarantee Program.
(2) \$10,000,000 to the North Carolina MWBE Growth Fund.
(3) \$5,000,000 to the CDFI Support Initiative.
(4) \$5,000,000 to the Small Business Technical Assistance Network.
(5) \$5,000,000 to the State Procurement Financing Initiative.
(6) \$4,000,000 to the Small Business Innovation Fund.
(7) \$1,000,000 for administrative costs.

SECTION 11.3B.(b) Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 20A.

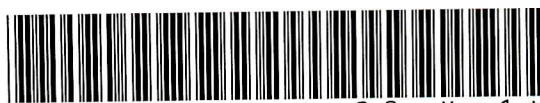
"Small Business Capital Access.

"§ 143B-271.113. Small Business Capital Access Act.

(a) Title. - This Part shall be known and may be cited as the "North Carolina Small Business Capital Access Act."

(b) Findings. - The General Assembly finds as follows:

- (1) Small businesses and MWBEs are vital to North Carolina's economy, creating jobs and driving innovation throughout the State.
(2) Despite their importance, these businesses face persistent barriers to accessing capital necessary for startup, operation, and growth.
(3) Existing capital access programs have gaps that leave many qualified businesses unable to secure necessary financing.



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- 1           (4) Targeted interventions have proven successful in other states and countries in  
2           addressing these capital access disparities.
- 3           (5) North Carolina has an opportunity to strengthen its economy by implementing  
4           a coordinated strategy to expand capital access for small businesses and  
5           MWBEs.
- 6           (c) Purpose. – The purpose of this Act is to establish a comprehensive framework to  
7           expand access to capital for small businesses and Minority and Women-Owned Business  
8           Enterprises throughout North Carolina through coordinated loan guarantees, direct investment,  
9           support for community lenders, technical assistance, and incentives for private investment.
- 10          (d) Definitions. – The following definitions apply in this Act:
- 11           (1) Board. – The Small Business Capital Access Oversight Board established by  
12           this Act.
- 13           (2) CDFI. – A Community Development Financial Institution certified by the  
14           U.S. Department of the Treasury.
- 15           (3) Department. – The North Carolina Department of Commerce.
- 16           (4) Fund. – The North Carolina Small Business Capital Access Fund.
- 17           (5) Growth-stage business. – A business that has established a viable product or  
18           service and is seeking capital to expand operations, market reach, or product  
19           offerings.
- 20           (6) MWBE. – A minority or women-owned business enterprise certified by the  
21           North Carolina Office for Historically Underutilized Businesses.
- 22           (7) Office. – The Office of Small Business Capital Access.
- 23           (8) Program. – The North Carolina Small Business Capital Access Program.
- 24           (9) Small business. – A business that employs fewer than 500 full-time  
25           employees.
- 26           (10) Technical assistance. – Professional guidance provided to business owners in  
27           areas including but not limited to business planning, financial management,  
28           marketing, operations, technology, and accessing capital.
- 29           (11) Underserved community. – A census tract that is designated as a low-income  
30           community according to the most recent data from the U.S. Census Bureau or  
31           is located in a rural area as defined by the North Carolina Rural Center.
- 32          (e) Office established, duties. – There is established within the Department of Commerce  
33           the Office of Small Business Capital Access. The Office shall be headed by a Director appointed  
34           by the Secretary of Commerce, who shall have substantial experience in small business financing,  
35           economic development, or MWBE support. The Office shall fulfil the following duties:
- 36           (1) Administer all components of the North Carolina Small Business Capital  
37           Access Program.
- 38           (2) Develop program guidelines, application procedures, and evaluation metrics.
- 39           (3) Coordinate with other state agencies providing services to small businesses  
40           and MWBEs.
- 41           (4) Conduct outreach to ensure participation by businesses in all regions of the  
42           State.
- 43           (5) Collect and analyze data on program outcomes.

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- 1           (6) Submit annual reports to the General Assembly and the Governor.  
2           (7) Seek additional funding through federal grants, philanthropic sources, and  
3               other avenues.

4           (f) Board established, duties. – There is established the Small Business Capital Access  
5 Oversight Board to provide strategic guidance for the Program by (i) reviewing and approving  
6 program guidelines developed by the Office; (ii) monitoring program performance and outcomes;  
7 (iii) advising on strategic priorities and capital deployment strategies; (iv) ensuring the Program  
8 reaches underserved communities and populations; (v) meeting at least quarterly; and (vi)  
9 submitting annual recommendations to the Governor and General Assembly. Board members  
10 shall serve four-year terms; provided that, initial appointments, as determined by the Board, shall  
11 be staggered to ensure at least two members are appointed annually. The Board shall consist of  
12 11 members as follows:

- 13           (1) The Secretary of Commerce or the Secretary's designee, who shall serve as  
14               chair.  
15           (2) The State Treasurer or the Treasurer's designee.  
16           (3) The President of the North Carolina Rural Center or the President's designee.  
17           (4) Two members appointed by the Governor, including one representative of a  
18               certified MWBE and one representative of a financial institution active in  
19               small business lending.  
20           (5) Two members appointed by the General Assembly upon the recommendation  
21               of President Pro Tempore of the Senate, including one representative of a  
22               CDFI operating in North Carolina and one small business owner from a rural  
23               county.  
24           (6) Two members appointed by the General Assembly upon recommendation of  
25               the Speaker of the House of Representatives, including one representative of  
26               a chamber of commerce or business association; and one small business owner  
27               from an urban county.  
28           (7) One member appointed by the North Carolina Black Entrepreneurship  
29               Council.  
30           (8) One member appointed by the North Carolina Hispanic Chamber of  
31               Commerce.

32           (g) North Carolina Small Business Capital Access Program. – There is established the  
33 North Carolina Small Business Capital Access Program, which shall consist of the elements  
34 listed in this subsection. The Office shall develop an application process and detailed guidelines  
35 in compliance with the provisions of this section for each program component in consultation  
36 with the Board and shall ensure coordination among program components to create a  
37 comprehensive capital access ecosystem. The North Carolina Small Business Capital Access  
38 Program includes the following components:

- 39           (1) The Small Business Loan Guarantee Program to increase lending to small  
40               businesses and MWBEs by reducing risk for private lenders. Required  
41               guidelines for the Small Business Loan Guarantee Program include, but are  
42               not limited to, the following:

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- a. The Small Business Loan Guarantee Program shall function to (i) provide guarantees for loans made by qualified lenders to eligible small businesses and MWBEs; (ii) cover up to 90 percent of the loan amount for MWBEs and up to 80 percent for other small businesses; (iii) prioritize businesses that have been denied traditional financing despite viable business models; (iv) establish maximum guarantee amounts based on available funding; and (v) Require reasonable fees to support program sustainability.
  - b. Eligible lenders are limited to (i) community banks; (ii) credit unions; (iii) certified CDFIs; (iv) minority depository institutions; and (v) other regulated financial institutions with small business lending experience.
  - c. Eligible borrowers shall include small businesses and MWBEs that meet all of the following requirements:
    - 1. Are headquartered and operating in North Carolina.
    - 2. Have been in operation for at least one year.
    - 3. Demonstrate, to the satisfaction of the Office, sound business practices and growth potential.
    - 4. Have been unable to secure adequate financing through conventional channels.
    - 5. Will use loan proceeds for business purposes approved by the Office, including working capital, equipment, inventory, or expansion.
  - d. The Office shall develop a streamlined application process for lenders and borrowers.
  - e. The Office shall establish a loan loss reserve to cover potential defaults.
- (2) The North Carolina MWBE Growth Fund shall function to provide equity and near-equity capital to growth-stage MWBEs. Required guidelines for the Fund include, but are not limited to, the following:
- a. The Fund shall function to (i) make direct investments in qualified MWBEs; (ii) focus on assisting businesses with proven business models seeking growth capital; (iii) structure investments as equity, convertible debt, revenue-based financing, or other flexible instruments; (iv) make investments ranging from two hundred fifty thousand dollars (\$250,000) to two million dollars (\$2,000,000); (v) require co-investment from private investors on terms to be determined by the Office; (vi) prioritize investments that will create quality jobs in North Carolina; and (vii) Reinvest returns from successful investments to ensure Fund sustainability.
  - b. The Office shall contract with an experienced fund manager selected through a competitive process to manage the Fund, with oversight from the Board.

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- c. The fund manager shall meet all of the following requirements:
    - 1. Have demonstrated experience in MWBE investment.
    - 2. Have a track record of successful investments in growth-stage businesses.
    - 3. Reflect the diversity of North Carolina in its leadership and team.
    - 4. Provide regular reports to the Office and Board on Fund performance.
    - 5. Provide post-investment support to portfolio companies.
  - (3) The CDFI Support Initiative to strengthen the capacity of Community Development Financial Institutions serving North Carolina communities. Required guidelines for the Initiative include, but are not limited to, the following:
    - a. The Initiative shall function to (i) provide direct grants to certified CDFIs operating in North Carolina; (ii) offer low-cost loan capital for CDFI relending programs; (iii) support capacity building for CDFI operations; and (iv) facilitate partnerships between CDFIs and traditional financial institutions.
    - b. Grant funds may be used for (i) loan loss reserves; (ii) operating support; (iii) technology improvements; (iv) product development; and (v) technical assistance capacity.
    - c. Priority shall be given to CDFIs that (i) primarily serve rural areas or underserved urban communities; (ii) demonstrate strong performance and financial management; (iii) show substantial lending impact in target communities; and (iv) leverage additional private capital.
    - d. Reporting on performance and grant funds shall be provided by certified CDFIs as required by the Office.
  - (4) The Small Business Technical Assistance Network to ensure businesses receiving capital are prepared to use it effectively. Required guidelines for the Network include, but are not limited to, the following:
    - a. The Initiative shall function to (i) provide business development services to participants in all Program components; (ii) coordinate existing technical assistance providers throughout the State; (iii) fund expanded capacity for high-performing providers; (iv) develop specialized assistance for specific industries or business needs; and (v) ensure services are accessible in all regions of the State.
    - b. Services provided shall include all of the following:
      - 1. Business planning and financial management.
      - 2. Market analysis and marketing strategy.
      - 3. Operations and human resources support.
      - 4. Technology adoption assistance.
      - 5. Certification preparation for government contracting.
      - 6. Capital readiness preparation.

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- 1                   c.     The Office shall develop a simplified referral system to connect  
2                   businesses to appropriate services.  
3                   d.     The Office shall track technical assistance outcomes and their  
4                   correlation with capital access program success.  
5           (6)   The State Procurement Financing Initiative to help small businesses and  
6           MWBEs access the capital necessary to fulfill State contracts. Required  
7           guidelines for the Initiative include, but are not limited to, the following:  
8           a.     The Initiative shall consist of the following:  
9               1.     A mobilization capital program providing short-term loans to  
10              cover upfront costs of contract performance.  
11              2.     A factoring program allowing businesses to obtain immediate  
12              payment on state contract invoices at favorable rates.  
13              3.     A bonding assistance program to help contractors secure  
14              required performance and payment bonds.  
15              4.     A quickpay requirement mandating that all State agencies pay  
16              approved invoices from small businesses and MWBEs within  
17              15 days.  
18           b.     Eligible businesses must (i) be certified as an MWBE or qualify as a  
19              small business; (ii) have been awarded a contract with a State agency  
20              or institution; and (iii) demonstrate the capacity to successfully  
21              complete the contract with appropriate financial support.  
22           c.     The Office shall coordinate with the Division of Purchase and Contract  
23              and other State contracting entities to implement the Initiative.  
24           d.     The guidelines created by the Office shall, for each program  
25              component, including application procedures, maximum assistance  
26              amounts, terms, and fees.  
27           (7)   The Small Business Innovation Fund to support innovative small businesses  
28              with high growth potential. Required guidelines for the Fund include, but are  
29              not limited to, the following:  
30           a.     The Fund shall function to (i) provide matching grants for recipients  
31              of federal Small Business Innovation Research (SBIR) and Small  
32              Business Technology Transfer (STTR) awards; (2) Support university  
33              technology commercialization partnerships with small businesses; (3)  
34              Fund regional innovation hubs in different parts of the state; and (4)  
35              Provide proof-of-concept grants for promising innovations with  
36              commercial potential.  
37           b.     The matching grant program shall: (1) Provide supplemental funding  
38              of up to 50 percent of the federal award amount, not to exceed  
39              \$100,000; (2) Be available to North Carolina-based recipients of Phase  
40              I SBIR or STTR awards; and (3) Include technical assistance to  
41              support successful Phase II applications.  
42           c.     Regional innovation hubs shall: (1) Be established in partnership with  
43              universities, community colleges, and private sector entities; (2)

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1 Provide physical space, equipment, and resources for entrepreneurs;  
2 (3) Offer specialized programming for innovative businesses; and (4)  
3 Connect entrepreneurs with capital sources and business development  
4 resources.  
5 d. The Office shall establish guidelines for each program component in  
6 consultation with the North Carolina Board of Science, Technology &  
7 Innovation.  
8 (h) The North Carolina Small Business Capital Access Fund is established as a special  
9 revenue fund in the Department of Commerce. The Fund shall consist of (i) appropriations by  
10 the General Assembly; (ii) federal grant funds; (iii) private contributions and donations; (iv) loan  
11 repayments and investment returns; (v) fees collected from program participants; and (vi) interest  
12 earnings. The Fund shall be used exclusively for the purposes set forth in this section, including  
13 reasonable administrative expenses. The Office shall establish separate accounts within the Fund  
14 for different program components as necessary for proper financial management.  
15 (i) The Office shall develop and implement a comprehensive evaluation framework to  
16 measure the impact and effectiveness of the Program. Performance metrics shall include at least  
17 (i) the number and demographics of businesses served by each program component; (ii) the  
18 amount of capital deployed, by program component, geographic region, industry, and business  
19 demographics; (iii) the number of jobs created and retained as a result of Program assistance; (iv)  
20 business revenue growth following program participation; (v) the amount of follow-on capital  
21 secured by participants; (vi) default rates and program sustainability; (vii) return on investment  
22 of public funds; and (viii) the economic impact in underserved communities. The Office contract  
23 for and procure an independent evaluation by a qualified external entity every three years and  
24 shall submit an annual report to the Governor and General Assembly by October 1, which shall  
25 include all of the following:  
26 (1) Detailed information on program activities and outcomes.  
27 (2) Financial statements for the Fund.  
28 (3) Analysis of program effectiveness.  
29 (4) Recommendations for program improvements.  
30 (5) Other information requested by the Board.  
31 (6) A copy of the report produced as a result of the independent evaluation  
32 required by this subsection in years in which it is produced.  
33 **SECTION 11.3B.(c)** The Department of Commerce shall adopt rules necessary to  
34 implement the provisions of this section.  
35 **SECTION 11.3B.(d)** This section becomes effective July 1, 2026. Within 60 days  
36 of the effective date of this section, the Secretary of Commerce shall appoint the Director of the  
37 Office of Small Business Capital Access. Within 90 days of the effective date of this section, all  
38 appointments to the Board shall be completed, and the Board shall hold its first meeting. Within  
39 180 days of the effective date of this section, the Office shall develop and publish program  
40 guidelines for all program components. Within one year of the effective date of this section, the  
41 Office shall implement the Small Business Loan Guarantee Program, the CDFI Support  
42 Initiative, the Small Business Technical Assistance Network; and a unified application system  
43 for all components. Within two years of the effective date of this section, the Office shall

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1 implement the North Carolina MWBE Growth Fund, the State Procurement Financing Initiative,  
2 and the initial regional innovation hubs."; and

3  
4 on page 439, lines 6-7, by inserting the following between those lines:

5  
6 **"TAX CREDITS FOR CERTAIN BUSINESS INVESTMENTS**

7 **SECTION 44.6.** Effective for taxable years beginning on or after January 1, 2025,  
8 Part 5 of Article 4 of Subchapter I of Chapter 105 of the General Statutes is reenacted as it existed  
9 immediately before its repeal and reads as rewritten:

10 "Part 5. Tax Credits for Qualified ~~Certain~~ Business Investments.

11 **"§ 105-163.010. Definitions.**

12 The following definitions apply in this Part:

- 13 (1) Affiliate. – An individual or business that controls, is controlled by, or is under  
14 common control with another individual or business.
- 15 (2) Business. – A corporation, partnership, limited liability company, association,  
16 or sole proprietorship operated for profit.
- 17 (3) Control. – A person controls an entity if the person owns, directly or  
18 indirectly, more than ten percent (10%) of the voting securities of that entity.  
19 As used in this subdivision, the term "voting security" means a security that  
20 (i) confers upon the holder the right to vote for the election of members of the  
21 board of directors or similar governing body of the business or (ii) is  
22 convertible into, or entitles the holder to receive upon its exercise, a security  
23 that confers such a right to vote. A general partnership interest is a voting  
24 security.
- 25 (3a) Eligible investor. – A person subject to one or more of the following:
- 26 a. The franchise tax levied in Article 3 of this Chapter.  
27 b. The income taxes levied in Article 4 of this Chapter.  
28 c. The gross premiums tax levied in Article 8B of this Chapter.
- 29 (3b) Eligible business. – A business that (i) is registered with the Secretary of State  
30 under G.S. 105-163.013, (ii) has received during the current year or any of the  
31 preceding three years assistance from the Office of Small Business Capital  
32 Access pursuant to G.S. 143B-271.113, (iii) is headquartered and primarily  
33 operating in this State, (iv) has been in operation at least one year, (v) during  
34 its most recent fiscal year before filing an application for registration under  
35 G.S. 105 163.013, it had gross revenues, as determined in accordance with  
36 generally accepted accounting principles, of five million dollars (\$5,000,000)  
37 or less on a consolidated basis, and (vi) has 100 or fewer full-time employees.
- 38 (4) Equity security. – Common stock, preferred stock, or an interest in a  
39 partnership, or subordinated debt that is convertible into, or entitles the holder  
40 to receive upon its exercise, common stock, preferred stock, or an interest in  
41 a partnership.
- 42 (5) Financial institution. – A business that is (i) a bank holding company, as  
43 defined in the Bank Holding Company Act of 1956, 12 U.S.C. §§ 1841, et

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1 seq., or its wholly owned subsidiary, (ii) registered as a broker-dealer under  
2 the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a, et seq., or its wholly  
3 owned subsidiary, (iii) an investment company as defined in the Investment  
4 Company Act of 1940, 15 U.S.C. §§ 80a-1, et seq., whether or not it is required  
5 to register under that act, (iv) a small business investment company as defined  
6 in the Small Business Investment Act of 1958, 15 U.S.C. §§ 661, et seq., (v)  
7 a pension or profit-sharing fund or trust, or (vi) a bank, savings institution,  
8 trust company, financial services company, or insurance company. The term  
9 does not include, however, a business, other than a small business investment  
10 company, whose net worth, when added to the net worth of all of its affiliates,  
11 is less than ten million dollars (\$10,000,000). The term also does not include  
12 a business that does not generally market its services to the public and is  
13 controlled by a business that is not a financial institution.

14 (5a) Granting entity.—Any of the following:

- 15 a. ~~A domestic or foreign corporation that (i) is tax exempt pursuant to~~  
16 ~~section 501(c)(3) of the Code, (ii) has as its principal purpose the~~  
17 ~~stimulation of the development of the biotechnology industry, and (iii)~~  
18 ~~in furtherance of that purpose has received, or is a successor in interest~~  
19 ~~to an organization that has received, direct appropriations from the~~  
20 ~~State in at least three fiscal years.~~  
21 b. ~~A domestic or foreign corporation that meets the following three~~  
22 ~~conditions:~~  
23 1. ~~It is tax exempt pursuant to section 501(c)(3) of the Code, is a~~  
24 ~~private foundation pursuant to section 509 of the Code, or is an~~  
25 ~~affiliate of either of the foregoing.~~  
26 2. ~~It has as its principal purpose one of the following: conducting~~  
27 ~~research and development in, or stimulating the development~~  
28 ~~of, electronic, photonic, information, or other technologies,~~  
29 ~~which may include investing in companies that provide~~  
30 ~~research, development, products, or services in these~~  
31 ~~technologies.~~  
32 3. ~~It meets one of the following conditions:~~  
33 I. ~~It received direct appropriations in furtherance of one~~  
34 ~~of these purposes from the State in at least three fiscal~~  
35 ~~years.~~  
36 II. ~~It was organized to perform one of these purposes for~~  
37 ~~an organization that meets condition I of this~~  
38 ~~sub-subdivision.~~  
39 III. ~~It is an affiliate of an entity that meets condition II of~~  
40 ~~this sub-subdivision.~~  
41 e. ~~An institute that (i) is administratively located within a constituent~~  
42 ~~institution of The University of North Carolina, (ii) is financed in part~~  
43 ~~by a domestic or foreign corporation that is tax exempt pursuant to~~

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- 1 section 501(e)(3) of the Code, (iii) has as a principal purpose the  
2 stimulation of economic development based on the advancement of  
3 science, engineering, and technology, and (iv) funds, either directly or  
4 in collaboration with other entities, small businesses engaging in  
5 developing technology.
- 6 (6) ~~North Carolina Enterprise Corporation. — A corporation established in~~  
7 ~~accordance with Article 3 of Chapter 53A of the General Statutes or a limited~~  
8 ~~partnership in which a North Carolina Enterprise Corporation is the only~~  
9 ~~general partner.~~
- 10 (7) ~~Pass-through entity. — Defined in G.S. 105-228.90.~~
- 11 (7b) ~~Qualified business. — A qualified business venture, a qualified grantee~~  
12 ~~business, or a qualified licensee business.~~
- 13 (8) ~~Qualified business venture. — A business that (i) engages primarily in~~  
14 ~~manufacturing, processing, warehousing, wholesaling, research and~~  
15 ~~development, or a service-related industry, and (ii) is registered with the~~  
16 ~~Secretary of State under G.S. 105-163.013.~~
- 17 (9) ~~Qualified grantee business. — A business that (i) is registered with the~~  
18 ~~Secretary of State under G.S. 105-163.013, and (ii) has received during the~~  
19 ~~current year or any of the preceding three years a grant, an investment, or other~~  
20 ~~funding from a federal agency under the Small Business Innovation Research~~  
21 ~~Program administered by the United States Small Business Administration or~~  
22 ~~from a granting entity as defined in this section.~~
- 23 (9a) ~~Qualified licensee business. — A business that meets all of the following~~  
24 ~~conditions:~~
- 25 a. ~~It is registered with the Secretary of State under G.S. 105-163.013.~~
- 26 b. ~~During its most recent fiscal year before filing an application for~~  
27 ~~registration under G.S. 105-163.013, it had gross revenues, as~~  
28 ~~determined in accordance with generally accepted accounting~~  
29 ~~principles, of one million dollars (\$1,000,000) or less on a~~  
30 ~~consolidated basis.~~
- 31 e. ~~It has been certified by a constituent institution of The University of~~  
32 ~~North Carolina or a research university as currently performing under~~  
33 ~~a licensing agreement with the institution or university for the purpose~~  
34 ~~of commercializing technology developed at the institution or~~  
35 ~~university. For the purpose of this section, a research university is an~~  
36 ~~institution of higher education classified as a Doctoral/Research~~  
37 ~~University, Extensive or Intensive, in the most recent edition of "A~~  
38 ~~Classification of Institutions of Higher Education", the official report~~  
39 ~~of The Carnegie Foundation for the Advancement of Teaching.~~
- 40 (10) ~~Real-estate-related business. — A business that is involved in or related to the~~  
41 ~~brokerage, selling, purchasing, leasing, operating, or managing of hotels,~~  
42 ~~motels, nursing homes or other lodging facilities, golf courses, sports or social~~  
43 ~~clubs, restaurants, storage facilities, or commercial or residential lots or~~

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1 ~~buildings is a real estate-related business, except that a real estate-related~~  
2 ~~business does not include (i) a business that purchases or leases real estate~~  
3 ~~from others for the purpose of providing itself with facilities from which to~~  
4 ~~conduct a business that is not itself a real estate-related business or (ii) a~~  
5 ~~business that is not otherwise a real estate-related business but that leases,~~  
6 ~~subleases, or otherwise provides to one or more other persons a number of~~  
7 ~~square feet of space which in the aggregate does not exceed fifty percent~~  
8 ~~(50%) of the number of square feet of space occupied by the business for its~~  
9 ~~other activities.~~

10 (10a) ~~Related person. — A person described in one of the relationships set forth in~~  
11 ~~section 267(b) or 707(b) of the Code.~~

12 (11) ~~Security. — A security as defined in Section 2(1) of the Securities Act of 1933,~~  
13 ~~15 U.S.C. § 77b(1).~~

14 (12) ~~Selling or leasing at retail. — A business is selling or leasing at retail if the~~  
15 ~~business either (i) sells or leases any product or service of any nature from a~~  
16 ~~store or other location open to the public generally or (ii) sells or leases~~  
17 ~~products or services of any nature by means other than to or through one or~~  
18 ~~more other businesses.~~

19 (13) ~~Service-related industry. — A business is engaged in a service-related industry,~~  
20 ~~whether or not it also sells a product, if it provides services to customers or~~  
21 ~~clients and does not as a substantial part of its business engage in a business~~  
22 ~~described in G.S. 105-163.013(b)(4). A business is engaged as a substantial~~  
23 ~~part of its business in an activity described in G.S. 105-163.013(b)(4) if (i) its~~  
24 ~~gross revenues derived from all activities described in that subdivision exceed~~  
25 ~~twenty-five percent (25%) of its gross revenues in any fiscal year or (ii) it is~~  
26 ~~established as one of its primary purposes to engage in any activities described~~  
27 ~~in that subdivision, whether or not its purposes were stated in its articles of~~  
28 ~~incorporation or similar organization documents.~~

29 (14) ~~Subordinated debt. — Indebtedness that is not secured and is subordinated to~~  
30 ~~all other indebtedness of the issuer issued or to be issued to a financial~~  
31 ~~institution other than a financial institution described in subdivisions (5)(ii)~~  
32 ~~through (5)(v) of this section. Except as provided in G.S. 105-163.014(d1),~~  
33 ~~any portion of indebtedness that matures earlier than five-three years after its~~  
34 ~~issuance is not subordinated debt.~~

35 **"§ 105-163.011. Tax credits allowed.**

36 (a) ~~No Credit for Brokered Investments. — No credit is allowed under this section for a~~  
37 ~~purchase of equity securities or subordinated debt if a broker's fee or commission or other similar~~  
38 ~~remuneration is paid or given directly or indirectly for soliciting the purchase.~~

39 (b) ~~Individuals. — Eligible Investors. — Subject to the limitations contained in~~  
40 ~~G.S. 105-163.012, an individual eligible investor who purchases the equity securities or~~  
41 ~~subordinated debt of a qualified business eligible business directly from that business is~~  
42 ~~allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount~~  
43 ~~equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit~~

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1 allowed an individual eligible investor for one or more investments made in a single taxable year  
2 under this Part, whether directly or indirectly as owner of a pass-through entity, may not be less  
3 than ten thousand dollars (\$10,000) and may not exceed fifty-five hundred thousand dollars  
4 (\$50,000). The credit may not be taken for the year in which the investment is made  
5 but may be taken for the taxable year beginning during the calendar year in which the application  
6 for the credit becomes effective as provided in subsection (c) of this section.

7 ~~(b1) Pass-Through Entities. This subsection does not apply to a pass-through entity that~~  
8 ~~has committed capital under management in excess of five million dollars (\$5,000,000) or to a~~  
9 ~~pass-through entity that is a qualified business or a North Carolina Enterprise Corporation.~~  
10 ~~Subject to the limitations provided in G.S. 105-163.012, a pass-through entity that purchases the~~  
11 ~~equity securities or subordinated debt of a qualified business directly from the business is eligible~~  
12 ~~for a tax credit equal to twenty-five percent (25%) of the amount invested. The aggregate amount~~  
13 ~~of credit allowed a pass-through entity for one or more investments made in a single taxable year~~  
14 ~~under this Part, whether directly or indirectly as owner of another pass-through entity, may not~~  
15 ~~exceed seven hundred fifty thousand dollars (\$750,000). The pass-through entity is not eligible~~  
16 ~~for the credit for the year in which the investment by the pass-through entity is made but is~~  
17 ~~eligible for the credit for the taxable year beginning during the calendar year in which the~~  
18 ~~application for the credit becomes effective as provided in subsection (c) of this section.~~

19 Each individual who is an owner of a pass-through entity is allowed as a credit against the  
20 tax imposed by Part 2 of this Article for the taxable year an amount equal to the owner's allocated  
21 share of the credits for which the pass-through entity is eligible under this subsection. The  
22 aggregate amount of credit allowed an individual for one or more investments made in a single  
23 taxable year under this Part, whether directly or indirectly as owner of a pass-through entity, may  
24 not exceed fifty thousand dollars (\$50,000).

25 If an owner's share of the pass-through entity's credit is limited due to the maximum allowable  
26 credit under this section for a taxable year, the pass-through entity and its owners may not  
27 reallocate the unused credit among the other owners.

28 (b2) Credit Bonus. – The credit allowed under this Part shall be increased by ten percent  
29 (10%) of the credit amount if the amount generating the credit is invested in an eligible business  
30 that is (i) located in a development tier one area or development tier two area, as defined in  
31 G.S. 143B-437.08, (ii) an MWBE, as defined in G.S. 143B-271.113, or (iii) both.

32 (c) Application. – To be eligible for the tax credit provided in this section, the taxpayer  
33 eligible investor must file an application for the credit with the Secretary. The application should  
34 be filed on or before April 15 of the year following the calendar year in which the investment  
35 was made. The Secretary may not accept an application filed after October 15 of the year  
36 following the calendar year in which the investment was made. An application is effective for  
37 the year in which it is timely filed. The application must be on a form prescribed by the Secretary  
38 and must include any supporting documentation that the Secretary may require. If an investment  
39 for which a credit is applied for was paid for other than in money, the taxpayer must include with  
40 the application a certified appraisal of the value of the property used to pay for the investment.  
41 The application for a credit for an investment made by a pass-through entity must be filed by the  
42 pass-through entity.

43 (d) Penalties. – The penalties provided in G.S. 105-236 apply in this Part.

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1 **"§ 105-163.012. Limit; carry-over; ceiling; reduction in basis.**

2 (a) The credit allowed a taxpayer under G.S. 105-163.011 may not exceed the amount of  
3 income tax imposed by Part 2 of this Article for the taxable year reduced by the sum of all other  
4 credits allowable except tax payments made by or on behalf of the taxpayer. The amount of  
5 unused credit allowed under G.S. 105-163.011 may be carried forward for the next five  
6 succeeding years.

7 (b) The total amount of all tax credits allowed to taxpayers under G.S. 105-163.011 for  
8 investments made in a calendar year may not exceed ~~seven million five hundred thousand~~ten  
9 million dollars ~~(\$7,500,000)-(\$10,000,000)~~. The Secretary of Revenue shall calculate the total  
10 amount of tax credits claimed from the applications filed pursuant to G.S. 105-163.011(c). If the  
11 total amount of tax credits claimed for investments made in a calendar year exceeds this  
12 maximum amount, the Secretary shall allow a portion of the credits claimed by allocating the  
13 maximum amount in tax credits in proportion to the size of the credit claimed by each taxpayer.

14 (c) If a credit claimed under G.S. 105-163.011 is reduced as provided in this section, the  
15 Secretary shall notify the taxpayer of the amount of the reduction of the credit on or before  
16 December 31 of the year following the calendar year in which the investment was made. The  
17 Secretary's allocations based on applications filed pursuant to G.S. 105-163.011(c) are final and  
18 shall not be adjusted to account for credits applied for but not claimed.

19 (d) The taxpayer's basis in the equity securities or subordinated debt acquired as a result  
20 of an investment in a ~~qualified~~eligible business shall be reduced for the purposes of this Article  
21 by the amount of allowable credit. "Allowable credit" means the amount of credit allowed under  
22 G.S. 105-163.011 reduced as provided in subsection (c) of this section.

23 ~~"§ 105-163.013. Registration.~~

24 (a) ~~Repealed by Session Laws 1993, c. 443, s. 4.~~

25 (b) ~~Qualified Business Ventures.—In order to qualify as a qualified business venture~~  
26 ~~under this Part, a business must be registered with the Securities Division of the Department of~~  
27 ~~the Secretary of State. To register, the business must file with the Secretary of State an application~~  
28 ~~and any supporting documents the Secretary of State may require from time to time to determine~~  
29 ~~that the business meets the requirements for registration as a qualified business venture. A~~  
30 ~~business meets the requirements for registration as a qualified business venture if all of the~~  
31 ~~following are true as of the date the business files the required application:~~

32 (1) ~~Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.~~

33 (1a) ~~Reserved for future codification purposes.~~

34 (1b) ~~Either (i) it was organized after January 1 of the calendar year in which its~~  
35 ~~application is filed or (ii) during its most recent fiscal year before filing the~~  
36 ~~application, it had gross revenues, as determined in accordance with generally~~  
37 ~~accepted accounting principles, of five million dollars (\$5,000,000) or less on~~  
38 ~~a consolidated basis.~~

39 (2) ~~Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.~~

40 (3) ~~It is organized to engage primarily in manufacturing, processing,~~  
41 ~~warehousing, wholesaling, research and development, or a service related~~  
42 ~~industry.~~

43 (4) ~~It does not engage as a substantial part of its business in any of the following:~~

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- 1 a. ~~Providing a professional service as defined in Chapter 55B of the~~  
2 ~~General Statutes.~~  
3 b. ~~Construction or contracting.~~  
4 c. ~~Selling or leasing at retail.~~  
5 d. ~~The purchase, sale, or development, or purchasing, selling, or holding~~  
6 ~~for investment of commercial paper, notes, other indebtedness,~~  
7 ~~financial instruments, securities, or real property, or otherwise make~~  
8 ~~investments.~~  
9 e. ~~Providing personal grooming or cosmetics services.~~  
10 f. ~~Offering any form of entertainment, amusement, recreation, or athletic~~  
11 ~~or fitness activity for which an admission or a membership is charged.~~

12 (5) ~~It was not formed for the primary purpose of acquiring all or part of the stock~~  
13 ~~or assets of one or more existing businesses.~~

14 (6) ~~It is not a real estate related business.~~

15 ~~The effective date of registration for a qualified business venture whose application is~~  
16 ~~accepted for registration is 60 days before the date its application is filed. No credit is allowed~~  
17 ~~under this Part for an investment made before the effective date of the registration or after the~~  
18 ~~registration is revoked. For the purpose of this Article, if a taxpayer's investment is placed~~  
19 ~~initially in escrow conditioned upon other investors' commitment of additional funds, the date of~~  
20 ~~the investment is the date escrowed funds are transferred to the qualified business venture free~~  
21 ~~of the condition.~~

22 ~~To remain qualified as a qualified business venture, the business must renew its registration~~  
23 ~~annually as prescribed by rule by filing a financial statement for the most recent fiscal year~~  
24 ~~showing gross revenues, as determined in accordance with generally accepted accounting~~  
25 ~~principles, of five million dollars (\$5,000,000) or less on a consolidated basis and an application~~  
26 ~~for renewal in which the business certifies the facts required in the original application.~~

27 ~~Failure of a qualified business venture to renew its registration by the applicable deadline~~  
28 ~~shall result in revocation of its registration effective as of the next day after the renewal deadline,~~  
29 ~~but shall not result in forfeiture of tax credits previously allowed to taxpayers who invested in~~  
30 ~~the business except as provided in G.S. 105-163.014. The Secretary of State shall send the~~  
31 ~~qualified business venture notice of revocation within 60 days after the renewal deadline. A~~  
32 ~~qualified business venture may apply to have its registration reinstated by the Secretary of State~~  
33 ~~by filing an application for reinstatement, accompanied by the reinstatement application fee and~~  
34 ~~a late filing penalty of one thousand dollars (\$1,000), within 30 days after receipt of the~~  
35 ~~revocation notice from the Secretary of State. A business that seeks approval of a new application~~  
36 ~~for registration after its registration has been revoked must also pay a penalty of one thousand~~  
37 ~~dollars (\$1,000). A registration that has been reinstated is treated as if it had not been revoked.~~

38 ~~If the gross revenues of a qualified business venture exceed five million dollars (\$5,000,000)~~  
39 ~~in a fiscal year, the business must notify the Secretary of State in writing of this fact by filing a~~  
40 ~~financial statement showing the revenues of the business for that year.~~

41 (b1) ~~Qualified Licensee Businesses.—In order to qualify as a qualified licensee business~~  
42 ~~under this Part, a business must be registered with the Securities Division of the Department of~~  
43 ~~the Secretary of State. To register, the business must file with the Secretary of State an application~~

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1 and any supporting documents the Secretary of State may require from time to time to determine  
2 that the business meets the requirements for registration as a qualified licensee business. The  
3 requirements for registration as a qualified licensee business are set out in G.S. 105-163.010.

4 The effective date of registration for a qualified licensee business whose application is  
5 accepted for registration is the filing date of its application. No credit is allowed under this Part  
6 for an investment made before the effective date of the registration or after the registration is  
7 revoked.

8 To remain qualified as a qualified licensee business, the business must renew its registration  
9 annually as prescribed by rule by filing a financial statement for the most recent fiscal year  
10 showing gross revenues, as determined in accordance with generally accepted accounting  
11 principles, of one million dollars (\$1,000,000) or less on a consolidated basis and an application  
12 for renewal in which the business certifies the facts required in the original application.

13 Failure of a qualified licensee venture to renew its registration by the applicable deadline  
14 results in revocation of its registration effective as of the next day after the renewal deadline, but  
15 does not result in forfeiture of tax credits previously allowed to taxpayers who invested in the  
16 business except as provided in G.S. 105-163.014. The Secretary of State shall send the qualified  
17 licensee business notice of revocation within 60 days after the renewal deadline. A qualified  
18 licensee business may apply to have its registration reinstated by the Secretary of State by filing  
19 an application for reinstatement, accompanied by the reinstatement application fee and a late  
20 filing penalty of one thousand dollars (\$1,000), within 30 days after receipt of the revocation  
21 notice from the Secretary of State. A business that seeks approval of a new application for  
22 registration after its registration has been revoked must also pay a penalty of one thousand dollars  
23 (\$1,000). A registration that has been reinstated is treated as if it had not been revoked.

24 If the gross revenues of a qualified business venture exceed one million dollars (\$1,000,000)  
25 in a fiscal year, the business must notify the Secretary of State in writing of this fact by filing a  
26 financial statement showing the revenues of the business for that year.

27 (e) Qualified Grantee Businesses. — In order to qualify as a qualified grantee business  
28 under this Part, a business must be registered with the Securities Division of the Department of  
29 the Secretary of State. To register, the business must file with the Secretary of State an application  
30 and any supporting documents the Secretary of State may require from time to time to determine  
31 that the business meets the requirements for registration as a qualified grantee business. The  
32 requirements for registration as a qualified grantee business are set out in G.S. 105-163.010.

33 The effective date of registration for a qualified grantee business whose application is  
34 accepted for registration is the filing date of its application. No credit is allowed under this Part  
35 for an investment made before the effective date of the registration or after the registration is  
36 revoked.

37 To remain qualified as a qualified grantee business, the business must renew its registration  
38 annually as prescribed by rule by filing an application for renewal in which the business certifies  
39 the facts demonstrating that it continues to meet the applicable requirements for qualification.

40 (d) Application Forms; Rules; Fees. — Applications for registration, renewal of  
41 registration, and reinstatement of registration under this section shall be in the form required by  
42 the Secretary of State. The Secretary of State may, by rule, require applicants to furnish  
43 supporting information in addition to the information required by subsections (b), (b1), and (c)

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1 of this section. The Secretary of State may adopt rules in accordance with Chapter 150B of the  
2 General Statutes that are needed to carry out the Secretary's responsibilities under this Part. The  
3 Secretary of State shall prepare blank forms for the applications and shall distribute them  
4 throughout the State and furnish them on request. Each application shall be signed by the owners  
5 of the business or, in the case of a corporation, by its president, vice president, treasurer, or  
6 secretary. There shall be annexed to the application the affirmation of the person making the  
7 application in the following form: "Under penalties prescribed by law, I certify and affirm that  
8 to the best of my knowledge and belief this application is true and complete." A person who  
9 submits a false application is guilty of a Class 1 misdemeanor.

10 The fee for filing an application for registration under this section is one hundred dollars  
11 (\$100.00). The fee for filing an application for renewal of registration under this section is fifty  
12 dollars (\$50.00). The fee for filing an application for reinstatement of registration under this  
13 section is fifty dollars (\$50.00).

14 An application for renewal of registration under this section must indicate whether the  
15 applicant is a minority business, as defined in G.S. 143-128, and include a report of the number  
16 of jobs the business created during the preceding year that are attributable to investments that  
17 qualify under this section for a tax credit and the average wages paid by each job. An application  
18 that does not contain this information is incomplete and the applicant's registration may not be  
19 renewed until the information is provided.

20 (e) Revocation of Registration. — If the Securities Division of the Department of the  
21 Secretary of State finds that any of the information contained in an application of a business  
22 registered under this section is false, it shall revoke the registration of the business. The Secretary  
23 of State shall not revoke the registration of a business solely because it ceases business operations  
24 for an indefinite period of time, as long as the business renews its registration each year as  
25 required under this section.

26 (f) Transfer of Registration. — A registration as a qualified business may not be sold or  
27 otherwise transferred, except that if a qualified business enters into a merger, conversion,  
28 consolidation, or other similar transaction with another business and the surviving company  
29 would otherwise meet the criteria for being a qualified business, the surviving company retains  
30 the registration without further application to the Secretary of State. In such a case, the qualified  
31 business must provide the Secretary of State with written notice of the merger, conversion,  
32 consolidation, or similar transaction and the name, address, and jurisdiction of incorporation or  
33 organization of the surviving company.

34 (g) Report by Secretary of State. — The Secretary of State shall report to the Revenue  
35 Laws Study Committee by October 1 of each year all of the businesses that have registered with  
36 the Secretary of State as qualified business ventures, qualified licensee businesses, and qualified  
37 grantee businesses. The report shall include the name and address of each business, the location  
38 of its headquarters and principal place of business, a detailed description of the types of business  
39 in which it engages, whether the business is a minority business as defined in G.S. 143-128, the  
40 number of jobs created by the business during the period covered by the report, and the average  
41 wages paid by these jobs.

42 **"§ 105-163.014. Forfeiture of credit.**

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1 (a) Participation in Business. – A taxpayer who has received a credit under this Part for  
2 an investment in a ~~qualified~~ eligible business forfeits the credit if, within three years after the  
3 investment was made, the taxpayer participates in the operation of the ~~qualified~~ eligible business.  
4 For the purpose of this section, a taxpayer participates in the operation of a ~~qualified~~ eligible  
5 business if the taxpayer, the taxpayer's spouse, parent, sibling, or child, or an employee of any of  
6 these individuals or of a business controlled by any of these individuals, provides services of any  
7 nature to the ~~qualified~~ eligible business for compensation, whether as an employee, a contractor,  
8 or otherwise. However, a person who provides services to a ~~qualified~~ eligible business, whether  
9 as an officer, a member of the board of directors, or otherwise does not participate in its operation  
10 if the person receives as compensation only reasonable reimbursement of expenses incurred in  
11 providing the services, participation in a stock option or stock bonus plan, or both.

12 (b) False Application. – A taxpayer who has received a credit under this Part for an  
13 investment in a ~~qualified~~ eligible business forfeits the credit if the registration of the ~~qualified~~  
14 business is revoked because information in the registration application was false at the time the  
15 application was filed with the Secretary of State. eligible business received assistance pursuant to  
16 G.S. 143B-271.113 as a result of providing false information to the Office and assistance was  
17 withdrawn as a result.

18 (c) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.

19 (d) Transfer or Redemption of Investment. – A taxpayer who has received a credit under  
20 this Part for an investment in a ~~qualified~~ eligible business forfeits the credit in the following  
21 cases:

- 22 (1) Within ~~one year~~ three years after the investment was made, the taxpayer  
23 transfers any of the securities received in the investment that qualified for the  
24 tax credit to another person or entity, other than in a transfer resulting *from*  
25 one of the following:
- 26 a. The death of the taxpayer.
  - 27 b. A final distribution in liquidation to the owners of a taxpayer that is a  
28 corporation or other entity.
  - 29 c. A merger, conversion, consolidation, or similar transaction requiring  
30 approval by the owners of the ~~qualified~~ eligible business under  
31 applicable State law, to the extent the taxpayer does not receive cash  
32 or tangible property in the merger, conversion, consolidation, or other  
33 similar transaction.
- 34 (2) Except as provided in subsection (d1) of this section, within ~~five~~ three years  
35 after the investment was made, the ~~qualified~~ eligible business in which the  
36 investment was made makes a redemption with respect to the securities  
37 received in the investment.

38 In the event the taxpayer transfers fewer than all the securities in a manner that would result  
39 in a forfeiture, the amount of the credit that is forfeited is the product obtained by multiplying  
40 the aggregate credit attributable to the investment by a fraction whose numerator equals the  
41 number of securities transferred and whose denominator equals the number of securities received  
42 on account of the investment to which the credit was attributable. In addition, if the redemption  
43 amount is less than the amount invested by the taxpayer in the securities to which the redemption

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1 is attributable, the amount of the credit that is forfeited is further reduced by multiplying it by a  
2 fraction whose numerator equals the redemption amount and whose denominator equals the  
3 aggregate amount invested by the taxpayer in the securities involved in the redemption. The term  
4 "redemption amount" means all amounts paid that are treated as a distribution in part or full  
5 payment in exchange for securities under section 302(a) of the Code.

6 ~~(d1) Certain Redemptions Allowed. — Forfeiture of a credit does not occur under this~~  
7 ~~section if a qualified business venture that engages primarily in motion picture film production~~  
8 ~~makes a redemption with respect to securities received in an investment and the following~~  
9 ~~conditions are met:~~

10 (1) ~~The redemption occurred because the qualified business venture completed~~  
11 ~~production of a film, sold the film, and was liquidated.~~

12 (2) ~~Neither the qualified business venture nor a related person continues to engage~~  
13 ~~in business with respect to the film produced by the qualified business venture.~~

14 (e) Effect of Forfeiture. — A taxpayer who forfeits a credit under this section is liable for  
15 all past taxes avoided as a result of the credit plus interest at the rate established under  
16 G.S. 105-241.21, computed from the date the taxes would have been due if the credit had not  
17 been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a  
18 taxpayer who fails to pay the past taxes and interest by the due date is subject to the penalties  
19 provided in G.S. 105-236.

20 ~~"§ 105-163.015. Sunset.~~

21 ~~This Part is repealed effective for investments made on or after January 1, 2014.";~~ and

22  
23 by adjusting the appropriate totals accordingly.

SIGNED

  
Amendment Sponsor

SIGNED

\_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_

FAILED \_\_\_\_\_

TABLED \_\_\_\_\_

**The official copy of this document, with signatures  
and vote information, is available in the  
Senate Principal Clerk's Office**