

May 9, 2007

H 2028. NC VENTURE CAPITAL ENHANCEMENT ACT. Filed 5/9/07. *TO PROMOTE RENEWABLE ENERGY, JOB CREATION, AND VENTURE CAPITAL.*

Enacts a new Article 3K in GS Chapter 105 known as the NC Venture Capital Enhancement Act. Creates, within the Department of Revenue, the NC Capital Investment Board (Board) to mobilize venture equity capital for investment in a way that will result in a significant potential to create jobs and to diversify and stabilize the state's economy. Provides for Board membership, filling vacancies, term length, quorum, compensation, qualifications, and related matters. Specifies the Board's duties as including: (1) establishing criteria and procedures for allocation and issuance of contingent tax credits to designated investors by means of Board-issued certificates; (2) establishing criteria and procedures for assessing the likelihood of future certificate redemptions by designated investors, including criteria and procedures for evaluating the value of investments made by the NC Capital Venture Fund (Venture Fund) and the returns from the Venture Fund; (3) establishing criteria and procedures for registering and redeeming contingent tax credits by designated investors holding Board-issued certificates; (4) establishing a target rate of return or range of returns on the Venture Fund's venture capital investments; (5) establishing criteria and procedures governing commitments obtained by the Board from designated purchasers including entering into commitments with designated purchasers and drawing on commitments to redeem certificates from designated investors. Provides that the Board has the power to expend and invest funds; enter into contracts; insure against loss; and make, amend, and revoke rules for the conduct of its affairs. Contains requirements for the criteria and procedures established by the Board for the allocation and issuance of contingent tax credits and redeeming of certificates and requires reporting. Creates the NC Capital Investment Corporation, an independent quasi-public nonprofit corporation, and legislates the purposes of the corporation, which include, among other things, to organize the Venture Fund. Provides that the State Treasurer serves as the corporation's incorporator, for composition of an appointment committee to elect the corporation's board of directors, and for composition of that board of directors, including terms and other matters. Requires the corporation to conduct a national solicitation for investment plan proposals from qualified venture capital investment fund allocation managers for the raising and investing of capital by the Venture Fund, in accordance with specified requirements. Regulates the management fee that the corporation may charge for assets under management in the Venture Fund and provides for dissolution of the Venture Fund as well as dissolution or privatization of the corporation. Provides for organization of the Venture Fund. Lists the purposes for which the Venture Fund may make investments in private seed and venture capital partnerships or entities. Provides for compensation from the Venture Fund to the corporation and for a redemption reserve. Sets out factors that the Venture Fund should consider when determining whether to invest in venture capital funds. Specifies a sector allocation for the Fund. Delineates the powers of the Venture Fund. Provides for annual audits. Requires the Board to make rules governing the form, issuance, and redemption of certificates and provides that the Board's issuance of certificates and related contingent tax credits to designated investors are subject to specified requirements. Provides for the transfer, registration, and redemption of certificates. Allows the Board to draw on a commitment to redeem a certificate from a designated investor. Defines relevant terms.

Intro. by Brubaker, Wainwright, Daughtridge. GS 105

June 25, 2007

H 2028. NC VENTURE CAPITAL ENHANCEMENT ACT. Filed 5/9/07. House committee substitute makes the following changes to 1st edition. Replaces the term North Carolina Capital Venture Fund with Fund throughout the bill. Modifies proposed new GS 105-129.102 as follows: (1) amends the definition of *certificate*; (2) deletes the definition of *commitment*; and (3) adds the definitions of *fund*, *investment manager*, and *target rate of return*. Modifies proposed new GS 105-129.103 to clarify that the North Carolina Capital Investment Board (board) is created within the Department of the State Treasurer. Modifies proposed new GS 105-129.104 to remove from the board's duties the establishment of listed types of criteria and the establishment of criteria and procedures governing commitments obtained from designated purchasers. Also removes

investing funds from the board's power. Modifies proposed new GS 105-129.105 to provide that to the extent that there are insufficient funds in the redemption reserve to redeem certificates, the investment manager must certify the shortfall amount and instruct the issuance of tax credit certificates in the shortfall amount to the designated investor (was, the criteria and procedures must grant the board the option to redeem certificates by certifying a contingent tax credit to the designated investor or making demand on designated purchasers). Modifies proposed new GS 105-129.107 to remove meaningless language. Modifies proposed new GS 105-129.115 to remove the provision prohibiting the fund from securing its debt with contingent tax credits issued by the board. Modifies proposed new GS 105-129.117 as follows (1) provides that tax credits are issued if there are insufficient funds in the redemption reserve to make a cash redemption (was, credits are certifiable if there are insufficient funds in the redemption reserve to make a cash redemption and the board does not exercise its other options); (2) provides that in determining the \$100 million maximum limit and the \$20 million limitation, tax credits issued against a certificate redemption are deemed to be redeemed in that fiscal year (was, the board shall use the cumulative amount of scheduled aggregate returns on certificates issued by the board to designated investors); (3) removes the requirement that certificates and related contingent tax credits that have been redeemed be included only to the extent of tax credits actually allowed and removes the provision that prohibited the inclusion of expired certificates and related contingent tax credits; (4) provides that contingent tax credits may not be redeemed except by a designated investor in accordance with *its terms* (was, in accordance with the terms of a certificate from the board); (5) provides that any contingent tax credit exceeding the taxpayer's liability for the tax year may be refunded to the investor (was, may be credited to the tax liability until the earlier of the depletion of the credit or seven years); (6) modifies the requirements for calculating the amount of a contingent tax credit; and (7) modifies the information that must be included on the certificate. Modifies proposed new GS 105-129.119 to require that when a designated investor redeems a certificate, the certificate must be presented to the investment manager (was, the board) for redemption on the scheduled date of redemption (was, no later than June 30 of the calendar year maturity date stated on the certificate). Provides that the determination of the tax credit must be based on rules made before the date that the designated investors made the investment. Deletes proposed new statute governing use of commitments to redeem certificates. Modifies proposed new GS 105-129.120 to provide that once issued, the certificates and related contingent tax credits are irrevocable obligations of the corporation and the state. Makes technical and conforming changes.