

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

**H.B 1090**  
**May 10, 2016**  
**HOUSE PRINCIPAL CLERK**

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HOUSE BILL DRH20428-MCxa-220B\* (04/26)

Short Title: Prosperity & Econ. Opportunity for All NC Act. (Public)

Sponsors: Representatives S. Martin, J. Bell, and Fraley (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENACT THE PROSPERITY AND ECONOMIC OPPORTUNITY FOR ALL OF  
3 NORTH CAROLINA ACT OF 2016.

4 The General Assembly of North Carolina enacts:

5  
6 **PART I. PROVIDING ACCESS TO ENTREPRENEURS**

7 **SECTION 1.(a)** G.S. 78A-17 is amended by adding a new subdivision to read:

8 "(20) Any offer or sale of a security by an issuer if the offer or sale is conducted in  
9 accordance with G.S. 78A-17.1."

10 **SECTION 1.(b)** Article 3 of Chapter 78A of the General Statutes is amended by  
11 adding a new section to read:

12 "**§ 78A-17.1. Invest NC exemption.**

13 (a) Exemption. – Except as otherwise provided in this Chapter, an offer or sale of a  
14 security by an issuer is exempt from G.S. 78A-24 and G.S. 78A-49(d) if the offer or sale is  
15 conducted in accordance with each of the following requirements:

16 (1) The issuer of the security is a business entity formed under the laws of the State  
17 and registered with the Secretary of State.

18 (2) The transaction meets the requirements of the federal exemption for intrastate  
19 offerings in section 3(a)(11) of the Securities Act of 1933, 15 U.S.C. §  
20 77c(a)(11), and SEC rule 147, 17 C.F.R. § 230.147.

21 (3) The sum of all cash and other consideration to be received for all sales of the  
22 security in reliance upon this exemption does not exceed the cap provided in  
23 this subdivision.

24 a. One million dollars (\$1,000,000), less the aggregate amount received  
25 for all sales of securities by the issuer made in reliance upon this  
26 exemption within the 12 months before the first offer or sale made in  
27 reliance upon this exemption, if the issuer has not undergone and made  
28 available to each prospective investor and the Administrator the  
29 documentation resulting from a financial audit or review with respect to  
30 its most recently completed fiscal year and meeting generally accepted  
31 accounting principles.

32 b. Two million dollars (\$2,000,000), less the aggregate amount received  
33 for all sales of securities by the issuer made in reliance upon this  
34 exemption within the 12 months before the first offer or sale made in  
35 reliance upon this exemption, if the issuer has undergone and made  
36 available to each prospective investor and the Administrator the



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1 documentation resulting from a financial audit or review with respect to  
2 its most recently completed fiscal year and meeting generally accepted  
3 accounting principles.

4 (4) The issuer has not accepted more than five thousand dollars (\$5,000) from any  
5 single purchaser in an offering made in reliance upon this exemption in any  
6 12-month period unless the purchaser is an accredited investor as defined by  
7 rule 501 of SEC regulation D, 17 C.F.R. § 230.501.

8 (5) Not less than 10 days prior to the commencement of an offering of securities in  
9 reliance on this exemption or the use of any publicly available Web site in  
10 connection with any such offering, the issuer shall file a notice with the  
11 Administrator, in writing or in electronic form as specified by the  
12 Administrator, containing the following:

13 a. A notice of claim of exemption from registration, specifying that the  
14 issuer will be conducting an offering in reliance upon this exemption,  
15 accompanied by the filing fee as specified in this section.

16 b. A copy of the disclosure statement to be provided to prospective  
17 investors in connection with the offering, containing the following:

18 1. A description of the company, its type of entity, the address and  
19 telephone number of its principal office, its history, its business  
20 plan, and the intended use of the offering proceeds, including  
21 any amounts to be paid, as compensation or otherwise, to any  
22 owner, executive officer, director, managing member, or other  
23 person occupying a similar status or performing similar  
24 functions on behalf of the issuer.

25 2. The identity of all persons owning more than ten percent (10%)  
26 of the ownership interests of any class of securities of the  
27 company.

28 3. The identity of the executive officers, directors, managing  
29 members, and other persons occupying a similar status or  
30 performing similar functions in the name of and on behalf of the  
31 issuer, including their titles and their prior experience.

32 4. The terms and conditions of the securities being offered and of  
33 any outstanding securities of the company, the minimum and  
34 maximum amount of securities being offered, if any, and either  
35 the percentage ownership of the company represented by the  
36 offered securities or the valuation of the company implied by the  
37 price of the offered securities.

38 5. The identity of any person who has been or will be retained by  
39 the issuer to assist the issuer in conducting the offering and sale  
40 of the securities, including any Web sites, but excluding persons  
41 acting solely as accountants or attorneys and employees whose  
42 primary job responsibilities involve the operating business of the  
43 issuer rather than assisting the issuer in raising capital, and for  
44 each person identified in response to this paragraph, a  
45 description of the consideration being paid to such person for  
46 such assistance.

47 6. A description of any litigation or legal proceedings involving the  
48 company or its management.

49 7. The names and addresses, including URL, of any Web sites that  
50 will be used in connection with the offering.

1           c.     An escrow agreement with a bank or other depository institution located  
2                 within this State in which the investor funds will be deposited,  
3                 providing that all offering proceeds will be released to the issuer only  
4                 when the aggregate capital raised from all investors is equal to or greater  
5                 than the minimum target offering amount specified in the disclosure  
6                 document provided to the Administrator pursuant to sub-subdivision  
7                 (a)(5)b. of this section and that all investors may cancel their  
8                 commitments to invest if that target offering amount is not raised by the  
9                 time stated in the disclosure document.

10          (6)    The issuer is not, either before or as a result of the offering, an investment  
11                 company, as defined in section 3 of the Investment Company Act of 1940, 15  
12                 U.S.C. § 8a-3, or an entity that would be an investment company but for the  
13                 exclusions provided in section 3(c) of the Act, or subject to the reporting  
14                 requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, 15  
15                 U.S.C. § 78m and 78o(d).

16          (7)    The issuer shall inform all prospective purchasers under this section that the  
17                 securities have not been registered under federal or State securities law and that  
18                 the securities are subject to limitations on resale. The issuer shall display the  
19                 following legend conspicuously on the cover page of the disclosure document:

20                     "IN MAKING AN INVESTMENT DECISION, INVESTORS MUST  
21                     RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND  
22                     THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND  
23                     RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN  
24                     RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES  
25                     COMMISSION OR REGULATORY AUTHORITY.  
26                     FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT  
27                     CONFIRMED THE ACCURACY OR DETERMINED THE  
28                     ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO  
29                     THE CONTRARY IS A CRIMINAL OFFENSE. THESE  
30                     SECURITIES ARE SUBJECT TO RESTRICTIONS ON  
31                     TRANSFERABILITY AND RESALE AND MAY NOT BE  
32                     TRANSFERRED OR RESOLD EXCEPT AS PERMITTED BY  
33                     SUBSECTION (E) OF SEC RULE 147, 17 C.F.R. § 230.147(E) AS  
34                     PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS  
35                     AMENDED, AND THE APPLICABLE STATE SECURITIES LAWS,  
36                     PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM.  
37                     INVESTORS SHOULD BE AWARE THAT THEY WILL BE  
38                     REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS  
39                     INVESTMENT FOR AN INDEFINITE PERIOD OF TIME."

40          (8)    The issuer shall require each purchaser to certify in writing "I understand and  
41                 acknowledge that:

42                 a.     I am investing in a high-risk, speculative business venture. I may lose  
43                 all of my investment, and I can afford the loss of my investment.

44                 b.     This offering has not been reviewed or approved by any state or federal  
45                 securities commission or other regulatory authority and that no such  
46                 person or authority has confirmed the accuracy or determined the  
47                 adequacy of any disclosure made to me relating to this offering.

48                 c.     The securities I am acquiring in this offering are illiquid, that there is no  
49                 ready market for the sale of such securities, that it may be difficult or  
50                 impossible for me to sell or otherwise dispose of this investment, and  
51                 that, accordingly, I may be required to hold this investment indefinitely.

- 1                   d.       I may be subject to tax on my share of the taxable income and losses of  
2                   the company, whether or not I have sold or otherwise disposed of my  
3                   investment or received any dividends or other distributions from the  
4                   company."
- 5       (9)       If the offer or sale of securities is made through an Internet Web site, the  
6       following requirements apply:
- 7           a.       Prior to the offer of an investment opportunity to residents of this State  
8           through a Web site, the issuer shall provide to the Web site and to the  
9           Administrator evidence that the issuer is organized under North  
10          Carolina law and that it is authorized to do business within the State.
- 11          b.       The issuer shall obtain from each purchaser of a security under this  
12          section evidence that the purchaser is a resident of North Carolina and,  
13          if applicable, an accredited investor.
- 14          c.       The Web site operator shall register with the Administrator by filing a  
15          statement that it is a business entity that is organized under North  
16          Carolina law and that it is authorized to do business within the State and  
17          that it is being utilized to offer and sell securities pursuant to this  
18          exemption. As part of the registration, the Web site shall notify the  
19          Administrator of its and the issuer's identity, location, and contact  
20          information.
- 21          d.       The issuer and the Web site must keep and maintain records of the  
22          offers and sales of securities effected through the Web site and must  
23          provide ready access to the records to the Administrator, upon request.  
24          The Administrator may access, inspect, and review any Web site and its  
25          records.
- 26       (10)       All payments for purchase of securities must be directed to and held by the  
27       bank or depository institution subject to the provisions of sub-subdivision  
28       (a)(5)c. of this section. The bank or depository institution shall notify the  
29       Administrator of the receipt of payments for securities and the identity and  
30       residence of the investors. The information shall be confidential and considered  
31       trade secrets within the scope of G.S. 132-1.2 while in the possession of the  
32       Administrator.
- 33       (11)       No offers or sales of a security shall be made through an Internet Web site  
34       unless the Web site is registered with the Administrator pursuant to  
35       sub-subdivision (a)(9)c. of this section. The Web site shall not be subject to the  
36       registration provisions of G.S. 78A-36 provided that all of the following apply:
- 37           a.       It does not offer investment advice or recommendations.
- 38           b.       It does not solicit purchases, sales, or offers to buy the securities offered  
39           or displayed on the Web site.
- 40           c.       It does not compensate employees, agents, or other persons for the  
41           solicitation or based on the sale of securities displayed or referenced on  
42           the Web site.
- 43           d.       It is not compensated based on the amount of securities sold, and it does  
44           not hold, manage, possess, or otherwise handle investor funds or  
45           securities.
- 46           e.       It does not engage in such other activities as the Administrator, by rule,  
47           determines appropriate.
- 48       (12)       An executive officer, director, managing member, or person occupying a  
49       similar status or performing similar functions in the name of and on behalf of  
50       the issuer shall be exempt from the registration provisions of G.S. 78A-36,  
51       provided that the person does not receive, directly or indirectly, any

1 commission or remuneration for offering and selling securities of the issuer  
2 pursuant to this exemption.

3 (13) The issuer must provide a copy of the disclosure document provided to the  
4 Administrator pursuant to sub-subdivision (a)(5)b. of this section to each  
5 prospective investor at the time the offer of securities is made to the prospective  
6 investor. In addition to the information described in sub-subdivision (a)(5)b. of  
7 this section, the disclosure document provided to the Administrator and to  
8 prospective investors should include additional information material to the  
9 offering, including, where appropriate, a discussion of significant factors that  
10 make the offering speculative or risky. This discussion must be concise and  
11 organized logically and should not present risks that could apply to any issuer  
12 or any offering.

13 (b) Indexing. – The dollar limitations provided in subdivision (a)(3) of this section shall be  
14 cumulatively adjusted every fifth year by the Administrator to reflect the change in the Consumer  
15 Price Index for All Urban Consumers published by the Bureau of Labor Statistics, setting each  
16 dollar limitation to the nearest fifty thousand dollars (\$50,000).

17 (c) Report. – An issuer of a security, the offer and sale of which is exempt under this  
18 section, shall provide a quarterly report to the issuer's investors until no securities issued under this  
19 section are outstanding. The report required by this subsection shall be free of charge. An issuer  
20 may satisfy the reporting requirement of this subsection by making the information available on an  
21 Internet Web site if the information is made available within 45 days of the end of each fiscal  
22 quarter and remains available until the succeeding quarterly report is issued. An issuer shall file  
23 each such quarterly report with the Administrator and must provide a written copy of the report to  
24 any investor upon request. The report must contain each of the following:

25 (1) Compensation received by each director and executive officer, including cash  
26 compensation earned since the previous report and on an annual basis and any  
27 bonuses, stock options, other rights to receive securities of the issuer or any  
28 affiliate of the issuer, or other compensation received.

29 (2) An analysis by management of the issuer of the business operations and  
30 financial condition of the issuer.

31 (d) Offers and Sales to Controlling Persons. – The exemption provided in this section shall  
32 not be used in conjunction with any other exemption under this Chapter, except offers and sales to  
33 controlling persons shall not count toward the limitations in subdivision (3) or (4) of subsection (a)  
34 of this section. A controlling person is an officer, director, partner, trustee, or individual occupying  
35 similar status or performing similar functions with respect to the issuer or to a person owning ten  
36 percent (10%) or more of the outstanding shares of any class or classes of securities of the issuer.

37 (e) Disqualification. – The exemption allowed by this section shall not apply if an issuer or  
38 person affiliated with the issuer or offering is subject to any disqualification contained in 18  
39 NCAC 06A .1207(a)(1) through (a)(6) or contained in rule 262 as promulgated under the  
40 Securities Act of 1933 (17 C.F.R. § 230.262). The provisions of this subsection shall not apply if  
41 (i) upon a showing of good cause and without prejudice to any other action by the Administrator,  
42 the Administrator determines that it is not necessary under the circumstances that an exemption be  
43 denied and (ii) the issuer establishes that it made factual inquiry into whether any disqualification  
44 existed under this subsection but did not know, and in the exercise of reasonable care could not  
45 have known, that a disqualification existed under this subsection. The nature and scope of the  
46 requisite inquiry will vary based on the circumstances of the issuer and the other offering  
47 participants.

48 (f) Rules. – The Administrator may adopt rules to implement the provisions of this section  
49 and to protect investors who purchase securities under this section.

50 (g) Fee. – The Administrator shall charge a nonrefundable filing fee of one hundred fifty  
51 dollars (\$150.00) for filing an exemption notice required by subsection (a) of this section. The fees

1 paid to the Administrator pursuant to this subsection shall be used to pay the costs incurred in  
2 administering and enforcing this Chapter. The revenue derived from the fee shall be credited to a  
3 nonreverting agency revenue account."

4 **SECTION 1.(c)** G.S. 78A-49(d) reads as rewritten:

5 "(d) The Administrator may by rule or order require the filing of any prospectus, pamphlet,  
6 circular, form letter, advertisement, or other sales literature or advertising communication  
7 addressed or intended for distribution to prospective investors, unless the security or transaction is  
8 exempted by ~~G.S. 78A-16 or 78A-17 (except 78A-17(9), (17), and (19))~~ G.S. 78A-16 and  
9 G.S. 78A-17 (except G.S. 78A-17(9), (17), (19), and (20)) and such exemption has not been  
10 denied or revoked under G.S. 78A-18 or the security is a security covered under federal law or the  
11 transaction is with respect to a security covered under federal law."

12 **SECTION 1.(d)** Notwithstanding any provision of Article 2A of Chapter 150B of the  
13 General Statutes, within 12 months of the effective date of this act, the Secretary of State shall  
14 adopt rules to implement the provisions of this act in accordance with the following procedure:

- 15 (1) At least 15 business days prior to adopting a rule, submit the rule and a notice  
16 of public hearing to the Codifier of Rules. The Codifier of Rules shall publish  
17 the proposed rule and the notice of public hearing on the Internet within five  
18 business days.
- 19 (2) At least 15 business days prior to adopting a rule, notify persons on the mailing  
20 list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties  
21 of the Secretary's intent to adopt a rule and of the public hearing.
- 22 (3) Accept written comments on the proposed rule for at least 15 business days  
23 prior to adoption of the rule.
- 24 (4) Hold at least one public hearing on the proposed rule no less than five days  
25 after the rule and notice have been published.

26 A rule adopted in accordance with this section becomes effective on the first day of the  
27 month following the month the Secretary adopts the rule and submits the rule to the Codifier of  
28 Rules for entry into the North Carolina Administrative Code.

29 **SECTION 1.(e)** Any rule adopted more than 12 months after the effective date of this  
30 act shall comply with the requirements of Article 2A of Chapter 150B of the General Statutes.

31 **SECTION 1.(f)** Subsection (d) of this section is effective when this act becomes law  
32 and expires 12 months after that date. Subsection (e) of this section becomes effective 12 months  
33 after the effective date of this act. The remainder of this Part is effective when it becomes law.

## 34 **PART II. NEW MARKETS TAX CREDIT**

35 **SECTION 2.(a)** Chapter 105 of the General Statutes is amended by adding a new  
36 Article to read:

37 "Article 3L.

38 "North Carolina New Markets Jobs Act.

### 39 **§ 105-129.100. Short title.**

40 The provisions of this Article shall be known and may be cited as the "North Carolina New  
41 Markets Jobs Act."

### 42 **§ 105-129.101. Definitions.**

43 The following definitions apply in this Article:

- 44 (1) Affiliate. – An entity that directly, or indirectly through one or more  
45 intermediaries, controls, is controlled by, or is under common control with  
46 another entity. For purposes of this Article, an entity is "controlled by" another  
47 entity if the controlling person holds, directly or indirectly, the majority voting  
48 or ownership interest in the controlled person or has control over the day-to-day  
49 operations of the controlled person by contract or law.
- 50

- 1           (2)   Applicable percentage. – Twelve and one-half percent (12.5%) for the first and  
2           second credit allowance dates and zero percent (0%) for all other credit  
3           allowance dates.
- 4           (3)   Credit allowance date. – With respect to any qualified equity investment, the  
5           following:  
6           a.     The date on which the investment is initially made.  
7           b.     Each of the six anniversary dates following the date on which the  
8           investment is initially made.
- 9           (4)   Department. – The Department of Commerce.
- 10          (5)   Principal business operations of a business. – Located at the place or places  
11          where at least sixty percent (60%) of its employees work or where employees  
12          that are paid at least sixty percent (60%) of the payroll work. An out-of-state  
13          business that has agreed to relocated employees using the proceeds of qualified  
14          low-income community investment to establish its principal business operations  
15          in a rural area in this State shall be deemed to have its principal business  
16          operations in this new location provided it satisfies this definition within 180  
17          days after receiving the qualified low-income community investment, unless  
18          the Department agrees to a later date.
- 19          (6)   Purchase price. – The amount paid to the qualified community development  
20          entity of a qualified equity investment for the qualified equity investment.
- 21          (7)   Qualified active low-income community business. – Defined in Section 45D of  
22          the Code and 26 C.F.R. § 1.45D-1.
- 23          (8)   Qualified community development entity. – Defined in Section 45D of the  
24          Code; provided that such entity has entered into, for the current year or any  
25          prior year, an allocation agreement with the Community Development  
26          Financial Institutions Fund of the United States Treasury Department with  
27          respect to credits authorized by Section 45D of the Code, which includes the  
28          State of North Carolina within the service area set forth in the allocation  
29          agreement. The term shall include qualified community development entities  
30          that are controlled by or are under common control with the qualified  
31          community development entity.
- 32          (9)   Qualified equity investment. – Any equity investment in a qualified community  
33          development entity that meets each of the following requirements:  
34          a.     Is acquired after the effective date of this act at its original issuance  
35          solely in exchange for cash or, if not so acquired, was a qualified equity  
36          investment in the hands of a prior holder.  
37          b.     Has the full purchase price used by the qualified community  
38          development entity to make qualified low-income community  
39          investments in qualified active low-income community businesses  
40          located in this State by the first anniversary of the initial credit  
41          allowance date.  
42          c.     Is designated by the qualified community development entity as a  
43          qualified equity investment under this subdivision and as a federal  
44          qualified equity investment with the Community Development Financial  
45          Institutions Fund.
- 46          (10) Qualified low-income community investment. – Any capital or equity  
47          investment in or loan to a qualified active low-income community business.  
48          With respect to any one qualified active low-income community business, the  
49          maximum amount of qualified low-income community investments made in  
50          that business, on a collective basis with all of the businesses' affiliates, that may  
51          be counted toward satisfaction of the requirements of sub-subdivision b. of

subdivision (9) of this section is seven million dollars (\$7,000,000), whether issued by one or several qualified community development entities. Any amounts returned or repaid by such qualified active low-income community business to a qualified community development entity may be reinvested in such qualified active low-income community business by such qualified community development entity and not be counted against the dollar limit provided for in this subdivision.

(11) Rural area. – A county designated as a development tier 1 or 2 area by the Department of Commerce pursuant to G.S. 143B-437.08 on or after 2016.

(13) Secretary. – The Secretary of Commerce.

(14) State tax liability. – The State premium tax liability on a premium tax report filed under Article 8B of this Chapter.

**§ 105-129.102. Reduction for qualified equity investment.**

(a) An entity that makes a qualified equity investment is vested with an earned credit against tax liability that may be utilized as follows:

(1) On each credit allowance date of such qualified equity investment, the entity or subsequent holder of the qualified equity investment shall be entitled to utilize a portion of the credit during the taxable year, including the credit allowance date.

(2) The credit reduction amount is equal to the applicable percentage for the credit allowance date multiplied by the purchase price paid.

(b) The amount of the credit claimed by an entity shall not exceed the amount of such entity's State tax liability for the tax year for which the credit is claimed. Any amount of tax credit that the entity is prohibited from claiming in a taxable year as a result of this section may be carried forward for use for five years.

**§ 105-129.103. Restrictions on transfer.**

No tax credit may be sold or transferred, except to an affiliate. Tax credits earned by or allocated to a partnership, limited liability company, corporation, or other pass-through entity may be allocated to the partners, members, or shareholders of such entity for their direct use in accordance with the provisions of any agreement among such partners, members, or shareholders, provided the qualified community development entity provides notice to the Department of the allocation.

**§ 105-129.104. Application and award.**

(a) A qualified community development entity that seeks to have an equity investment designated as a qualified equity investment and eligible for tax credits under this Article shall apply to the Department on a form prescribed by the Department. The form shall include each of the following:

(1) Evidence of the applicant's certification as a qualified community development entity, including evidence that North Carolina is included in the service area of the entity.

(2) A copy of the allocation agreement executed by the applicant or its controlling entity and the Community Development Financial Institutions Fund.

(3) A certificate executed by an executive officer of the applicant attesting that the allocation agreement remains in effect and has not otherwise been revoked or cancelled by the Community Development Financial Institutions Fund.

(b) Within 30 days after receipt of a completed application containing the information set forth in subsection (a) of this section, the Department shall grant or deny the application in full or in part. If the Department denies any part of the application, it shall inform the qualified community development entity of the grounds for the denial and the qualified community development entity shall have 15 days from the notice of denial to correct the application. If the



1 qualified community development entity fails to correct its application within the 15-day period,  
2 the application remains denied and must be resubmitted in full with a new submission date.

3 (c) If the application is granted, the Department shall certify the proposed equity  
4 investment as a qualified equity investment that is eligible for tax credits under this Article in  
5 writing, subject to the limitations provided in subsection (e) of this section.

6 (d) The Department shall certify qualified equity investments in the order in which  
7 applications are received by the Department. Applications received on the same day shall be  
8 deemed to have been received simultaneously. For applications that are complete and received on  
9 the same day, the Department shall certify, consistent with remaining qualified equity investment  
10 capacity, qualified equity investments in proportionate percentages based upon the ratio of the  
11 amount of qualified equity investment requested in an application to the total amount of qualified  
12 equity investments requested in all applications received on the same day.

13 (e) A total of one hundred million dollars (\$100,000,000) in qualified equity investment  
14 authority pursuant shall be available for certification and allocation each fiscal year. The  
15 Department shall accept applications beginning on November 1, 2016, and each November 15  
16 thereafter, for allocation and certification up to the limitation provided in this subsection. If a  
17 pending request cannot be fully certified due to the limitation provided in this subsection, the  
18 Department shall certify the portion that may be certified unless the qualified community  
19 development entity elects to withdraw its request rather than receive partial certification.

20 (f) An approved applicant may transfer all or a portion of its certified qualified equity  
21 investment authority to its controlling entity or any qualified community development entity that  
22 is controlled by or under common control with the applicant, by providing notice to the  
23 Department in writing, and the Department shall acknowledge such transfer in writing.

24 (g) Within 30 days of receiving certification of qualified equity investment authority, the  
25 qualified community development entity shall issue the qualified equity investment, receive cash  
26 in the amount of the certified amount, and designate an amount equal to the certified amount as a  
27 federal qualified equity investment with the Community Development Financial Institutions Fund.  
28 The qualified community development entity shall provide the Department with evidence of the  
29 receipt of the cash investment and designation of the qualified equity investment as a federal  
30 qualified equity investment within five business days after receipt. If the qualified community  
31 development entity does not receive the cash investment or designate the equity investment as a  
32 federal qualified equity investment within 30 days following receipt of the certification notice, the  
33 certification shall lapse and the entity may not issue the qualified equity investment without  
34 reapplying to the Department for certification. Lapsed certifications revert back to the Department  
35 and shall be reissued, first, pro rata to other applicants whose qualified equity investment  
36 allocations were reduced pursuant to subsection (d) of this section and thereafter in accordance  
37 with the application process.

38 **"§ 105-129.105. Recapture.**

39 The Department shall recapture and revoke the tax credit allowed pursuant to this Article if  
40 any of the following occur:

41 (1) Any amount of a federal tax credit available with respect to a qualified equity  
42 investment that is eligible for a credit under this Article is recaptured under  
43 Section 45D of the Code. In such case, the recapture by the Department of  
44 Insurance shall be proportionate to the federal recapture with respect to such  
45 qualified equity investment.

46 (2) The qualified community development entity fails to make qualified  
47 low-income community investments in an amount equal to the purchase price in  
48 North Carolina non-real estate qualified active low-income community  
49 businesses within 12 months of the issuance of the qualified equity investment  
50 with at least seventy-five percent (75%) of its qualified equity investment

1 authority initially invested in qualified active low-income community  
2 businesses whose principal business operations are located in rural areas.  
3 (3) After satisfying subdivision (2) of this section, the qualified community  
4 development entity fails to maintain qualified low-income community  
5 investments in North Carolina non-real estate qualified active low-income  
6 community businesses equal to one hundred percent (100%) of its qualified  
7 equity investment authority until the last credit allowance date for the qualified  
8 equity investment.

9 For purposes of this Article, an investment shall be considered held by a qualified community  
10 development entity even if the investment has been sold or repaid if the qualified community  
11 development entity reinvests an amount equal to the capital returned to or recovered by the  
12 qualified community development entity from the original investment, exclusive of any profits  
13 realized, in another qualified low-income community investment within 12 months of the receipt  
14 of such capital. Periodic amounts received during a calendar year as repayment of principal on a  
15 loan that is a qualified low-income community investment shall be treated as continuously  
16 invested in a qualified low-income community investment if the amounts are reinvested in another  
17 qualified low-income community investment by the end of the following calendar year. A  
18 qualified community development entity shall not be required to reinvest capital returned from  
19 qualified low-income community investments after the sixth anniversary of the issuance of the  
20 qualified equity investment, and the qualified low-income community investment shall be  
21 considered held by the qualified community development entity through the seventh anniversary  
22 of the qualified equity investment.

23 **"§ 105-129.106. Cure period.**

24 Enforcement of the recapture provisions of G.S. 105-129.105 of this Article shall be subject to  
25 a six-month cure period. No recapture shall occur until the qualified community development  
26 entity has been given notice of noncompliance by the Department of Insurance and afforded six  
27 months from the date of such notice to cure the noncompliance.

28 **"§ 105-129.107. Retaliatory tax treatment.**

29 An entity claiming a credit under this Article is not required to pay any additional retaliatory  
30 tax levied under G.S. 105-228.8 as a result of claiming the credit. It is the intent of the General  
31 Assembly that an entity claiming a reduction under this Article is not required to pay any  
32 additional tax that may arise as a result of claiming that reduction.

33 **"§ 105-129.108. Annual report.**

34 (a) Qualified community development entities that issue qualified equity investments shall  
35 submit a report to the Department within the first five business days after the first anniversary of  
36 the initial credit allowance date that provides documentation of the investment of the full amount  
37 of the purchase price in qualified low-income community investments in qualified active  
38 low-income community businesses located in North Carolina. The report shall include all of the  
39 following:

- 40 (1) A bank statement of such qualified community development entity evidencing  
41 each qualified low-income community investment.  
42 (2) Evidence that such business was a qualified active low-income community  
43 business located at the time of such qualified low-income community  
44 investment.  
45 (3) Evidence that the qualified community development entity invested at least  
46 seventy-five percent (75%) of the purchase price in qualified active low-income  
47 community businesses located in rural areas.

48 (b) Thereafter, the qualified community development entity will submit an annual report to  
49 the Department with 45 days of the beginning of the calendar year during the compliance period.  
50 No annual report shall be due prior to the first anniversary of the initial credit allowance date. The  
51 report shall include, but is not limited to, the following:

1           (1) Number of employment positions created and retained as a result of qualified  
2           low-income community investments.

3           (2) Average annual salary of positions described in subdivision (1) of this  
4           subsection.

5           (c) The qualified community development entity is not required to provide the annual  
6 report set forth in subsection (b) of this section for qualified low-income community investments  
7 that have been redeemed or repaid.

8 **"§ 105-129.109. Rules; advisory letters.**

9           The Department may promulgate rules and issue advisory letters under this Article. The  
10 Department shall look for guidance in rule making and issuing guidelines from Section 45O of the  
11 Code and the rules and regulations issued thereunder.

12 **"§ 105-129.110. New capital requirement.**

13           No qualified active low-income community business that receives a qualified low-income  
14 community investment from a qualified community development entity that issues qualified equity  
15 investments under this Article, or any affiliates of such a qualified active low-income community  
16 business, may directly or indirectly (i) own or have the right to acquire an ownership interest in a  
17 qualified community development entity or member or affiliate of a qualified community  
18 development entity, including, but not limited to, a holder of a qualified equity investment issued  
19 by the qualified community development entity, or (ii) loan to or invest in a qualified community  
20 development entity or member or affiliate of a qualified community development entity, including,  
21 but not limited to, a holder of a qualified equity investment issued by a qualified community  
22 development entity, where the proceeds of such loan or investment are directly or indirectly used  
23 to fund or refinance the purchase of a qualified equity investment hereunder. For purposes of this  
24 Article, a qualified community development entity shall not be considered an affiliate of a  
25 qualified active low-income community business solely as a result of its qualified low-income  
26 community investment in such business.

27 **"§ 105-129.111. Net benefit test.**

28           Prior to making a qualified low-income community investment, a qualified community  
29 development entity shall provide a revenue impact assessment prepared using a nationally  
30 recognized third-party independent economic forecasting method and that projects State and local  
31 tax revenue to be generated by project that receives qualified low-income community investment  
32 will result in a positive economic impact over a 10-year period that exceeds one hundred ten  
33 percent (110%) of the cumulative amount of tax credits the qualified low-income community  
34 investment will generate. The Department shall have 15 days to review the assessment and  
35 provide notice of approval. Any assessment not approved or denied within 15 days shall be  
36 deemed approved. The requirements of this section shall not apply to any reinvestments that may  
37 be required with respect to capital returned or repaid from a qualified community development  
38 entity's initial qualified low-income community investments."

39           **SECTION 2.(b)** This Part becomes effective July 1, 2016, and applies to qualified  
40 equity investments made on or after that date.

41  
42 **PART III. SMALL BUSINESS VENTURE FUND**

43           **SECTION 3.(a)** G.S. 147-69.2(b) reads as rewritten:

44           (b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in  
45 subsection (a) of this section in excess of the amount required to meet the current needs and  
46 demands on such funds. The State Treasurer may invest the funds as provided in this subsection. If  
47 an investment was authorized by this subsection at the time the investment was made or  
48 contractually committed to be made, then that investment shall continue to be authorized by this  
49 subsection, and none of the percentage or other limitation on investments set forth in this  
50 subsection shall be construed to require the State Treasurer to subsequently dispose of the  
51 investment or fail to honor any contractual commitments as a result of changes in market values,

1 ratings, or other investment qualifications. For purposes of computing market values on which  
 2 percentage limitations on investments in this subsection are based, all investments shall be valued  
 3 as of the last date of the most recent fiscal quarter.

4 ...  
 5 (12) It is the intent of the General Assembly that the Escheat Fund provide a  
 6 perpetual and sustainable source of funding for the purposes authorized by the  
 7 State Constitution. Accordingly, the following provisions apply:

8 a. With respect to assets of the Escheat Fund, in addition to those  
 9 investments authorized by subdivisions (1) through (6) of this  
 10 subsection, up to ten percent (10%) of such assets may be invested in  
 11 the investments authorized under subdivisions (6c) through (9a) of this  
 12 subsection, notwithstanding the percentage limitations imposed on the  
 13 Retirement Systems' investments under those subdivisions.

14 b. The State Treasurer shall engage a third-party professional actuary or  
 15 consultant to conduct a valuation and projection of the financial status  
 16 of the Escheat Fund. The associated costs for the services may be  
 17 directly charged to the Escheat Fund. The State Treasurer shall  
 18 communicate the valuation of the actuary or consultant in an annual  
 19 report to the Governor, the Speaker of the House of Representatives, the  
 20 President Pro Tempore of the Senate, and the chairs of the respective  
 21 appropriations and appropriate substantive committees of each chamber.  
 22 The annual report shall evaluate claims by owners upon the Escheat  
 23 Fund, current and projected investment returns, and projected  
 24 contributions to the Escheat Fund. In the report, the State Treasurer shall  
 25 assess the status of utilizing the Escheat Fund as an endowment fund  
 26 and shall recommend an annual amount available for the funding of  
 27 scholarships, loans, and grants from the Fund. The annual report shall  
 28 be presented no later than December 31 of each year.

29 c. The State Treasurer shall invest, in addition to those investments  
 30 authorized by subdivision (12) of this subsection, ten percent (10%) of  
 31 the net assets of the Escheat Fund as authorized under G.S. 147-69.2A.

32 d. With respect to assets of the Escheat Fund, in addition to those  
 33 investments otherwise authorized by this subdivision, up to one hundred  
 34 million dollars (\$100,000,000) of such assets may be invested as  
 35 authorized under G.S. 147-69.2B."

36 **SECTION 3.(b)** G.S. 147-69.2A reads as rewritten:

37 **"§ 147-69.2A. Investments; special funds held by the State Treasurer.**

38 (a) ~~Firm to Administer Fund.— Following a public procurement process, a designee of the~~  
 39 ~~Governor, a designee of the State Treasurer, a designee of the Speaker of the House of~~  
 40 ~~Representatives, and a designee of the President Pro Tempore of the Senate shall jointly and~~  
 41 ~~unanimously select a third party professional investment management firm, registered with the~~  
 42 ~~U.S. Securities and Exchange Commission, to administer the Fund and select investment~~  
 43 ~~opportunities appropriate for receiving allocations from the Fund on the basis of potential return~~  
 44 ~~on investment and the risks attendant thereto.~~ Funds; Administration. — The State Treasurer shall  
 45 assign professional and clerical staff to assist in the oversight of the Fund. All costs for the  
 46 third-party investment management firm and the professional and clerical staff shall be borne by  
 47 the Fund pursuant to G.S. 147-69.3(f). The State Treasurer shall discharge his or her duties with  
 48 respect to the Fund as a fiduciary consistent with the provisions of applicable law, including,  
 49 without limitation, G.S. 36E-3. Administration of Fund shall be as follows:

50 (1) With the exception of assets of the Fund made available for investment  
 51 pursuant to G.S. 147-69.2(b)(12)d., following a public procurement process, a

1 designee of the Governor, a designee of the State Treasurer, a designee of the  
2 Speaker of the House of Representatives, and a designee of the President Pro  
3 Tempore of the Senate shall jointly and unanimously select a third-party  
4 professional investment management firm, registered with the U.S. Securities  
5 and Exchange Commission, to administer the Fund and select investment  
6 opportunities appropriate for receiving allocations from the Fund on the basis of  
7 potential return on investment and the risks attendant thereto.

8 (2) For assets of the Fund made available for investment pursuant to  
9 G.S. 147-69.2(b)(12)d., following a public procurement process, a designee of  
10 the Governor, a designee of the State Treasurer, a designee of the Secretary of  
11 Commerce, a designee of the Speaker of the House of Representatives, and a  
12 designee of the President Pro Tempore of the Senate shall jointly and  
13 unanimously select a third-party professional investment management firm,  
14 registered with the U.S. Securities and Exchange Commission as an Investment  
15 Advisor and an exempt entity, to administer the Fund and select investment  
16 opportunities appropriate for receiving allocations from the Fund on the basis of  
17 the limitations provided in subsections (c) and (c1) of this section.

18 (b) Organization and Reporting.—All Public Records. — With the exception of assets of  
19 the Fund made available for investment pursuant to G.S. 147-69.2(b)(12)d., all documents of the  
20 Governor or the State Treasurer concerning the Fund are public records governed by Chapter 132  
21 of the General Statutes and any applicable provisions of the General Statutes protecting  
22 confidential information. For assets of the Fund made available for investment pursuant to  
23 G.S. 147-69.2(b)(12)d., all documents of the Governor, the Secretary of Commerce, or the State  
24 Treasurer concerning the Fund are public records governed by Chapter 132 of the General Statutes  
25 and any applicable provisions of the General Statutes protecting confidential information.

26 (b1) The Investment Policy. — With the exception of assets of the Fund made available for  
27 investment pursuant to G.S. 147-69.2(b)(12)d., the State Treasurer and the Governor shall jointly  
28 develop and adopt an investment policy statement for the Fund. For assets of the Fund made  
29 available for investment pursuant to G.S. 147-69.2(b)(12)d., the State Treasurer, the Secretary of  
30 Commerce, and the Governor shall jointly develop and adopt an investment policy statement for  
31 the Fund.

32 (b2) The Conflict of Interest. — With the exception of assets of the Fund made available for  
33 investment pursuant to G.S. 147-69.2(b)(12)d., the State Treasurer and Governor shall jointly  
34 adopt a common policy to prevent conflicts of ~~interests such that~~ interests. For assets of the Fund  
35 made available for investment pursuant to G.S. 147-69.2(b)(12)d., the State Treasurer, the  
36 Secretary of Commerce, and the Governor shall jointly develop and adopt an investment policy  
37 statement for the Fund. A policy adopted pursuant to this subsection shall ensure, at a minimum,  
38 that (i) ~~the designees of the State Treasurer and Governor designees~~ who selected ~~the~~ a third-party  
39 investment management ~~firm,~~ firm pursuant to this section, (ii) the staff of the State Treasurer  
40 overseeing the Fund, and (iii) the third-party investment management firm's employees selecting  
41 or overseeing Fund investments do not provide services for compensation (as an employee,  
42 consultant, or otherwise), within two years after the end of their service to the Fund, to any entity  
43 in which an investment from the Fund was made.

44 (b3) Investment Report. — By October 1, 2015, 1 of each year and at least semiannually  
45 thereafter, the State Treasurer shall submit a report to the Governor, the Office of State Budget and  
46 Management, the Joint Legislative Commission on Governmental Operations, and the Fiscal  
47 Research Division on investments made from the Fund and any return on investment. This report  
48 shall be made for the Fund in lieu of the reports required by G.S. 147-69.1(e), 147-69.2(b)(10a),  
49 147-69.3(h), 147-69.3(i), and 147-69.8.

50 (c) Types of Investments Limitation. — Assets of the Fund may be invested in those types  
51 of investments authorized for the North Carolina Retirement Systems by G.S. 147-69.2(b),

1 notwithstanding the percentage limitations imposed on the Retirement Systems' investments under  
2 those subdivisions.

3 (c1) Additional Limitations. – For assets of the Fund made available for investment  
4 pursuant to G.S. 147-69.2(b)(12)d. only, the following additional limitations apply:

5 (1) Such assets shall be allocated to small business ventures (i) with a North  
6 Carolina nexus; (ii) of various sizes, growth potential, and industry  
7 classifications to maximize opportunities for reasonable return on investment,  
8 accounting for risks associated with similar types of investment, and to provide  
9 capital and growth opportunities for small business enterprises typically  
10 underserved by ordinary venture capital and investment funds; and (iii) that  
11 diversify investment risk and maximize the number of business ventures that  
12 may benefit from the Fund. The following definitions apply in this subdivision:

13 a. North Carolina nexus. – A business has a North Carolina nexus if it is  
14 headquartered or domiciled in this State; has a demonstrable and  
15 significant portion of its affiliated operations or contractual service  
16 operations in this State; or deploys a demonstrable and significant  
17 amount of investable capital to acquire, license, or otherwise  
18 commercialize intellectual property developed in this State, including  
19 through public or private university technology transfer programs.

20 b. Small business. – A small business is a business whose annual receipts,  
21 combined with the annual receipts of all related persons, for the  
22 applicable period of measurement did not exceed five million dollars  
23 (\$5,000,000).

24 (2) No more than thirty-three percent (33%) of such assets may be allocated to  
25 business ventures located in urban regions in the State, including the counties of  
26 Wake, Durham, Mecklenburg, and Orange.

27 (3) The maximum amount for total annual investments, excluding rollover  
28 investments, made in any single calendar year is twenty million dollars  
29 (\$20,000,000). No investment may be made that, when considered together  
30 with other investments made during a single calendar year, excluding rollover  
31 investments, could cause the State's total annual investments during a single  
32 calendar year to exceed twenty million dollars (\$20,000,000). A rollover  
33 investment equals the difference between the maximum allowed investment  
34 amount for a single calendar year and the amount actually invested for such  
35 year.

36 (4) At least twenty percent (20%) of such assets shall be invested in business  
37 ventures started and owned, in at least majority part, by a veteran of any branch  
38 of the Armed Forces of the United States (i) whose character of service at  
39 separation was honorable or under honorable conditions and (ii) who has not  
40 been convicted of a felony offense or who has been convicted of one or more  
41 felonies but each conviction has been expunged.

42 (d) ~~Report on Escheat Fund Valuation.~~ Valuation Report. – The State Treasurer shall  
43 engage a third-party professional actuary or consultant to conduct a valuation and projection of the  
44 financial status of the Escheat Fund. The associated costs for the services may be directly charged  
45 to the Escheat Fund. The State Treasurer shall communicate the valuation of the actuary or  
46 consultant in an annual report to the Governor, the Speaker of the House of Representatives, the  
47 President Pro Tempore of the Senate, and the chairs of the respective appropriations and  
48 appropriate substantive committees of each chamber. The annual report shall evaluate claims by  
49 owners upon the Escheat Fund, current and projected investment returns, and projected  
50 contributions to the Escheat Fund. In the report, the State Treasurer shall assess the status of  
51 utilizing the Escheat Fund as an endowment fund and shall recommend an annual amount

1 available for the funding of scholarships, loans, and grants from the Fund. The annual report shall  
2 be presented no later than December 31 of each year."

3 **SECTION 3.(c)** This Part becomes effective July 1, 2016.  
4

5 **PART IV. ENCOURAGE INTER-TIER COOPERATION FOR JDIG**

6 **SECTION 4.(a)** G.S. 143B-437.53 reads as rewritten:

7 "**§ 143B-437.53. Eligible projects.**

8 (a) Minimum Number of Eligible Positions. – A business may apply to the Committee for  
9 a grant for any project that creates the minimum number of eligible positions as ~~set out in the table~~  
10 ~~below. If the project will be located in more than one development tier area, the location with the~~  
11 ~~highest development tier area designation determines the minimum number of eligible positions~~  
12 ~~that must be created.~~follows:

Development Tier Area	Number of Eligible Positions
Tier One	10
Tier Two	20
Tier Three	50

17 "...."

18 **SECTION 4.(b)** Article 10 of Chapter 143B of the General Statutes is amended by  
19 adding a new section to read:

20 "**§ 143B-437.56A. Multilocation projects.**

21 (a) Except as provided in subsection (b) of this section, if a project will be located in more  
22 than one development tier area, the location with the highest area designation determines the  
23 standards applicable under this Part to the project.

24 (b) For purposes of G.S. 143B-437.56(d), if a project will be located in more than one  
25 development tier area, the location with the lowest area designation determines the percentage of  
26 the annual grant approved for disbursement payable to the Utility Account pursuant to  
27 G.S. 143B-437.61 if (i) the project will have at least one location in a development tier three area,  
28 (ii) the project will have at least one location in a development tier one or two area, and (iii) at  
29 least sixty-six percent (66%) of the number of eligible positions created or the total benefits of the  
30 project to the State, as calculated pursuant to G.S. 143B-437.52, or both are located in the lowest  
31 area designation."

32 **SECTION 4.(c)** This Part becomes effective January 1, 2017, and applies to awards  
33 made on or after that date.  
34

35 **PART V. REPEAL TAXATION OF MILL MACHINERY**

36 **SECTION 5.(a)** Article 5F of Chapter 105 of the General Statutes and  
37 G.S. 105-164.13(5a) are repealed.

38 **SECTION 5.(b)** G.S. 105-164.4I(b) reads as rewritten:

39 "(b) Exemptions. – The tax imposed by this section does not apply to the sales price of or  
40 the gross receipts derived from a service contract applicable to any of the following items:

- 41 (1) An item exempt from tax under this Article.
- 42 (2) A transmission, distribution, or other network asset contained on utility-owned  
43 land, right-of-way, or easement.
- 44 (3) A transmission, an engine, rear-end gears, and any other item purchased by a  
45 professional motorsports racing team or a related member of a team for which  
46 the team may receive a sales tax refund under G.S. 105-164.14A(a)(5). This  
47 subdivision expires January 1, 2020.
- 48 (4) ~~An item subject to tax under Article 5F of Chapter 105 of the General Statutes.~~
- 49 (5) A qualified aircraft or a qualified jet engine."

50 **SECTION 5.(c)** This Part becomes effective July 1, 2016, and applies to sales made  
51 on or after that date.

**PART VI. DOT/PERMIT PROCESS REVISIONS**

**SECTION 6.(a)** Uniform Process for Issuing Permits; Report. – For each type of permit issued by the Highway Divisions under Chapter 136 of the General Statutes, the Department of Transportation shall make uniform all processes and procedures followed by the Highway Divisions when issuing that type of permit. The Department shall report no later than February 1, 2017, to the Joint Legislative Transportation Oversight Committee on the implementation of this section, including (i) what processes and procedures were adjusted, (ii) how were the identified processes and procedures adjusted, and (iii) a comparison of the average length of time for obtaining each type of permit before and after implementation of this section.

**SECTION 6.(b)** Allow Electronic Submission of Permits. – Article 7 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-93.01. Electronic submission of permits authorized.**

Except as otherwise prohibited under federal law, an application submitted for a permit issued by the Department of Transportation or its agents under this Chapter may be submitted electronically in a manner approved by the Department. If submitted electronically, a paper copy of the application shall not be required."

**SECTION 6.(c)** G.S. 136-19.5(c) reads as rewritten:

"(c) Whenever the Department of Transportation requires the relocation of ~~utilities~~utilities, including cable service as defined in G.S. 105-164.3, located in a right-of-way for which the utility owner contributed to the cost of acquisition, the Department of Transportation shall reimburse the utility owner for the cost of moving those utilities."

**SECTION 6.(d)** Notwithstanding G.S. 150B-21.1(a), the Department of Transportation may adopt temporary rules to implement the provisions of this section.

**SECTION 6.(e)** Subsection (a) of this section becomes effective July 1, 2016. The remainder of this Part is effective when it becomes law.

**PART VII. INNOVATION TO JOBS INITIATIVE****RALLYING INVESTORS AND SKILLED ENTREPRENEURS OF NC (RISE NC)**

**SECTION 7.1.(a)** Purpose. – In order to increase the number of high-tech start-up companies and enhance job creation, the Rallying Investors and Skilled Entrepreneurs of North Carolina (RISE NC) initiative creates a statewide network that develops and leverages existing North Carolina entrepreneurial management talent and recruits world-class investors, skilled entrepreneurs, and managers to North Carolina.

**SECTION 7.1.(b)** Grant. – The Office of Science, Technology, and Innovation in the Department of Commerce shall establish a competitive award process to provide funding to one or more North Carolina nonprofit corporations to perform the following:

- (1) The development of a statewide entrepreneurial network to connect serial entrepreneurs to university start-ups; and
- (2) The development of an entrepreneurship fellowship program.

Grant funds shall be matched on the basis of one dollar (\$1.00) in grant funds for every two dollars (\$2.00) of nongrant funds. Matching funds shall not include other State funds.

**SECTION 7.1.(c)** Reports. – The Office of Science, Technology, and Innovation in the Department of Commerce and the nonprofit corporation selected in subsection (b) of this section shall provide an annual report to the Office of State Budget and Management and the Fiscal Research Division no later than January 1 of each fiscal year. The report shall detail expenditures and grants made from these funds and provide evidence of return on investment, including the number of new companies founded and data on jobs created, including occupational classifications and salary ranges.



1           **SECTION 7.1.(d)** Oversight. – The Department of Commerce, in consultation with  
2 the Office of State Budget and Management, shall provide monitoring and oversight of the  
3 performance of a contract entered into pursuant to this section with a North Carolina nonprofit  
4 corporation.

5           **SECTION 7.1.(e)** Public Funds. – A North Carolina nonprofit corporation with which  
6 the Department contracts pursuant to this section shall use interest earned on State funds after  
7 receipt of the funds by the nonprofit corporation only for the same purposes identified in  
8 subsection (b) of this section.

9           **SECTION 7.1.(f)** Appropriation. – There is appropriated from the General Fund to  
10 the Office of State Budget and Management the sum of two million five hundred thousand dollars  
11 (\$2,500,000) in nonrecurring funds for the 2016-2017 fiscal year to be allocated to a reserve to be  
12 used for the purposes set forth in this section. Funds appropriated in this section shall not revert at  
13 the end of the fiscal year but shall remain available until expended. The Department of Commerce  
14 may use up to five percent (5%) of the reserve funds to administer the initiative.

15           **SECTION 7.1.(g)** Effective Date. – This section becomes effective July 1, 2016.  
16

## 17 **UNIVERSITY INNOVATION COMMERCIALIZATION GRANT PROGRAM**

18           **SECTION 7.2.(a)** Purpose. – In order to increase the number of high-tech start-up  
19 companies and enhance job creation resulting from research conducted by North Carolina's  
20 universities and research-focused nonprofit corporations, the University Innovation  
21 Commercialization Grant Program is established.

22           **SECTION 7.2.(b)** Grants. – The Office of Science, Technology, and Innovation in the  
23 Department of Commerce (Department) shall establish a competitive award process to provide  
24 funding to develop and implement processes for technology proof of concept, validation, Internet  
25 protocol protection, early- and mid-stage product development and production, commercialization,  
26 and translation for technologies developed by North Carolina universities.

27           **SECTION 7.2.(c)** Administration. – The Department of Commerce may use up to ten  
28 percent (10%) of grant funds appropriated in this act to contract with one or more nonprofit  
29 corporations to assist with the following:

- 30           (1) Select university technologies for development based on commercial potential.
- 31           (2) Create a development plan of key activities to make the technologies more  
32 attractive to investors.
- 33           (3) Guide implementation of these activities to assure efficient deployment of  
34 funds and commercial-quality results.

35 Each nonprofit organization must demonstrate expertise in life science technologies, such as  
36 medical, biological, and agricultural technologies or nonlife sciences technologies, such as  
37 information technology, materials technology, and cyber security.

38           **SECTION 7.2.(d)** Eligibility. – Upon recommendation and guidance from a nonprofit  
39 corporation with which the Department contracts pursuant to subsection (c) of this section, the  
40 Department of Commerce may make grant awards only to the following:

- 41           (1) A constituent institution of The University of North Carolina.
- 42           (2) A private college or university located in North Carolina.

43           **SECTION 7.2.(e)** Reports. – The Office of Science, Technology, and Innovation in  
44 the Department of Commerce and the nonprofit corporation selected under subsection (c) of this  
45 section shall provide an annual report to the Office of State Budget and Management and the  
46 Fiscal Research Division no later than January 1 of each fiscal year. The report shall detail  
47 expenditures and grants made from these funds and provide evidence of return on investment,  
48 including (i) the number of technologies brought to market; (ii) the number of new companies  
49 founded; and (iii) data on jobs created, including occupational classifications and salary ranges.

50           **SECTION 7.2.(f)** Oversight. – The Department of Commerce, in consultation with  
51 the Office of State Budget and Management, shall provide monitoring and oversight of the

1 performance of any contract entered into pursuant to this section with a North Carolina nonprofit  
2 corporation and of the funds granted to institutes of higher education.

3 **SECTION 7.2.(g)** Public Funds. – A North Carolina nonprofit corporation or institute  
4 of higher education with which the Department contracts or grants funds pursuant to this section  
5 shall use interest earned on State funds after receipt of the funds by the nonprofit corporation only  
6 for the same purposes authorized by subsection (c) of this section.

7 **SECTION 7.2.(h)** Appropriation. – There is appropriated from the General Fund to  
8 the Office of State Budget and Management the sum of two million five hundred thousand dollars  
9 (\$2,500,000) in nonrecurring funds for the 2016-2017 fiscal year to be allocated to a reserve to be  
10 used for the purposes set forth in this section. Funds appropriated in this section shall not revert at  
11 the end of the fiscal year but shall remain available until expended. The Department of Commerce  
12 may use up to five percent (5%) of the reserve funds to administer the initiative.

13 **SECTION 7.2.(i)** Effective Date. – This section becomes effective July 1, 2016.  
14

## 15 **PART VIII. FOOD MANUFACTURING**

16 **SECTION 8.1.** There is appropriated from the General Fund to the Department of  
17 Agriculture and Consumer Services the sum of two hundred thirty thousand dollars (\$230,000) in  
18 recurring funds for the 2016-2017 fiscal year to be allocated to the North Carolina Food  
19 Manufacturing Task Force established pursuant to Executive Order 73 issued by the Governor on  
20 April 9, 2015, to be used for the creation of a new Science, Technology, and Policy Director  
21 position. The Director shall have at least all of the following responsibilities:

- 22 (1) Providing technical, regulatory, and policy training for current and newly  
23 recruited food companies and food entrepreneurs.
- 24 (2) Leading coordination with the North Carolina Food Manufacturing Leadership  
25 Team and the Food Manufacturers' Industry Advisory Committee or similar  
26 entities when and if established.
- 27 (3) Creating and maintaining a North Carolina food manufacturing network.
- 28 (4) Conducting annual meetings with food manufacturing stakeholders to foster an  
29 exchange of education, training, and innovation in the industry.
- 30 (5) Providing Food Safety Modernization Act and other relevant training.

31 **SECTION 8.2.(a)** The Department of Agriculture and Consumer Services shall create  
32 marketing and communication programs consisting of, at a minimum, the following:

- 33 (1) The coordination of existing branding and the highlighting and expansion of the  
34 marketing of North Carolina food manufacturing to new markets.
- 35 (2) The use of media and advertising strategies to highlight North Carolina raw and  
36 manufactured goods in online, print, and purchased media, as well as expanding  
37 to interactive mobile applications and advertising to enable strategic targeting  
38 of industry needs and maximize opportunities for North Carolina commodity  
39 associations, growers, and food manufacturers.
- 40 (3) The organization of summit meetings to bring together interested seed- and  
41 early-stage investors and venture capital firms for exposure to food  
42 manufacturing investment opportunities in this State. The summit meetings are  
43 intended to allow collaboration among farmers, producers, and food  
44 manufacturers to highlight market needs and match potential investors with  
45 funding opportunities in the North Carolina food manufacturing industry.

46 **SECTION 8.2.(b)** There is appropriated from the General Fund to the Department of  
47 Agriculture and Consumer Services the sum of one million dollars (\$1,000,000) in nonrecurring  
48 funds for the 2016-2017 fiscal year to be used for the purposes set forth in this section. Funds  
49 appropriated in this section shall not revert at the end of the fiscal year but shall remain available  
50 until expended pursuant to this section.

51 **SECTION 8.3.** This Part becomes effective July 1, 2016.

1  
2 **PART IX. TOURISM AND MARKETING EXPANSION**

3 **SECTION 9.(a)** There is appropriated from the General Fund to the Department of  
4 Commerce the sum of twelve million dollars (\$12,000,000) in nonrecurring funds for the  
5 2016-2017 fiscal year to be used to promote tourism and expansion of foreign investment and  
6 interest in this State by investing domestically and internationally in promotion of sports events,  
7 film tourism, retirement destination advertising, and other activities designed to increase the  
8 effective geographic reach of activities positioning the State as a preferred destination for  
9 travelers. Funds shall be used primarily for media purchases for marketing and advertising  
10 campaigns on television, online video, and print; expansion of direct-to-consumer promotion in  
11 established markets; and international marketing; however, permissible uses also include  
12 contracting with research firms to assess image and awareness and identify the anticipated return  
13 on investment for advertising campaigns; ongoing analytics activities to track efficiency of owned  
14 and paid digital media investment in generating arrivals in the State; identification and  
15 prioritization of geographic areas and audience segmentation by interest showing greatest growth  
16 potential for tourism in the State; efforts directed towards retirement, sports events recruitment,  
17 and film tourism; and additional development and deployment of online tourism efforts of the  
18 State, including social media strategy. Of the funds appropriated in this section, the Department  
19 shall ensure the funds are allocated as follows:

<u>Amount of funds</u>	<u>Use of funds</u>
\$8,500,000	Domestic marketing and advertising
\$2,500,000	International marketing and advertising
\$500,000	Sports events marketing and advertising
\$250,000	Retiree attraction marketing and advertising
\$250,000	Film tourism marketing and advertising.

26 **SECTION 9.(b)** The Department of Commerce shall report on the use of all funds  
27 appropriated in this section. The report shall include an executive summary of any research or  
28 analytics performed, including resultant changes in strategy, and all identified returns on  
29 investment, including (i) tourism gains itemized by geographic area, audience segmentation by  
30 market, and use of funds designations given in subsection (a) of this section and (ii) gains in  
31 efficiency of tourism advertising in generating arrivals in the State. The report is due no later than  
32 October 1, 2017 and must be submitted to the Joint Legislative Economic Development and  
33 Global Engagement Oversight Committee and the Fiscal Research Division of the General  
34 Assembly.

35 **SECTION 9.(c)** This Part becomes effective July 1, 2016.  
36

37 **PART X. EXTEND RESEARCH AND DEVELOPMENT TAX CREDIT**

38 **SECTION 10.(a)** G.S. 105-129.51 reads as rewritten:

39 **"§ 105-129.51. Taxpayer standards and sunset.**

40 (a) A taxpayer is eligible for a credit allowed in this Article if it satisfies the requirements  
41 of G.S. 105-129.83(c), (d), (e), (f), and (g) relating to wage standard, health insurance,  
42 environmental impact, safety and health programs, and overdue tax debts, respectively.

43 (b) This Article is repealed for taxable years beginning on or after January 1, ~~2016-2020~~.

44 (c) Repealed by Session Laws 2004-124, s. 32D.4, effective for taxable years beginning on  
45 or after January 1, 2006."

46 **SECTION 10.(b)** This Part is effective for taxable years beginning on or after January  
47 1, 2016.  
48

49 **PART XI. FUNDING FOR IDENTIFICATION OF UNDERUTILIZED STATE**  
50 **PROPERTY**

1           **SECTION 11.(a)** There is appropriated from the General Fund to the Department of  
 2 Administration the sum of six hundred thousand dollars (\$600,000) in nonrecurring funds for the  
 3 2016-2017 fiscal year to be used in determining which existing, currently underutilized State  
 4 property will be best suited for sale or lease by enabling the Department to conduct qualitative  
 5 analysis on the cost and best use of such properties, including appraisals, surveys, environmental  
 6 studies, and Phase I and II studies, and to hire third-party consultants to conduct comprehensive  
 7 space and design planning for prospective office space so as to ensure efficient use of existing  
 8 office square footage in light of future office needs.

9           **SECTION 11.(b)** G.S. 66-58(b) reads as rewritten:

10        "(b) The provisions of subsection (a) of this section shall not apply to:

11        ...

12        (14) Nothing herein contained shall be construed to prohibit the engagement in any  
 13 of the activities described in subsection (a) hereof ~~by a firm, corporation or~~  
 14 ~~person who or which is a lessee for the following:~~

15        a. A lease of space only of from the State of North Carolina or any of its  
 16 departments or agencies; provided the leases shall be awarded by the  
 17 Department of Administration to the highest bidder, as provided by law  
 18 in the case of State contracts and which lease shall be for a term of not  
 19 less than one year and not more than five years.

20        b. A lease of parking spaces, whether surface parking or in a State-owned  
 21 parking structure, in accordance with the procedures set forth for leases  
 22 in Chapter 146 of the General Statutes for any period of time the  
 23 Department of Administration determines the spaces to be in excess of  
 24 need in accordance the Department's authority under Chapter 143 of the  
 25 General Statutes.

26        c. A ground lease of State-owned land in accordance with the procedures  
 27 set forth for leases in Chapter 146 of the General Statutes.

28        ...."

29        **SECTION 11.(c)** This Part becomes effective July 1, 2016.

## 30        **PART XII. INCREASE FUNDING OF MAIN STREET SOLUTIONS FUND**

31        **SECTION 12.(a)** There is appropriated from the General Fund to the Department of  
 32 Commerce the sum of one million dollars (\$1,000,000) in nonrecurring funds for the 2016-2017  
 33 fiscal year to be allocated to the Main Street Solutions Fund and used for the purposes of Part 15  
 34 of Article 10 of Chapter 143B of the General Statutes.

35        **SECTION 12.(b)** This Part becomes effective July 1, 2016.

## 36        **PART XIII. COMMUNITY PLANNER POSITION FUNDING**

37        **SECTION 13.(a)** Section 4.1 of S.L. 2014-18, as amended by Section 14.1 of  
 38 2015-241 and Section 5.2A of S.L. 2015-268, reads as rewritten:

39        "**SECTION 4.1.** No later than January 1, 2015, the Departments of Commerce, Environment  
 40 and Natural Resources, and Transportation shall have at least one employee physically located in  
 41 the same office in each of the Collaboration for Prosperity Zones set out in G.S. 143B-28.1 to  
 42 serve as that department's liaison with the other departments and with local governments, schools  
 43 and colleges, planning and development bodies, and businesses in that zone. The departments  
 44 shall jointly select the office. For purposes of this Part, the Department of Commerce may contract  
 45 with a North Carolina nonprofit corporation pursuant to G.S. 143B-431A, as enacted by this act, to  
 46 fulfill the departmental liaison requirements for each office in each of the Collaboration for  
 47 Prosperity Zones, and the Department of Environment and Natural Resources shall fulfill the  
 48 departmental liaison requirements from existing and funded positions. The Department of  
 49 Commerce shall additionally have at least one employee from the Rural Economic Development  
 50 and Transportation Departments."

1 Division Main Street and Rural Planning Center physically located in each office in each of the  
2 Collaboration for Prosperity Zones, who shall be responsible for assisting communities in the  
3 Prosperity Zone with adding value to their economic and community development projects by  
4 assisting communities with solutions, including economic development strategic planning,  
5 land-use planning, implementation services, downtown economic revitalization, and technical  
6 support.

7 No later than January 1, 2015, the Community Colleges System Office shall designate at least  
8 one representative from a community college or from the Community Colleges System Office to  
9 serve as a liaison in each Collaboration for Prosperity Zone for the community college system, the  
10 community colleges in the zone, and other educational agencies and schools within the zone. A  
11 liaison may be from a business center located in a community college. These liaisons are not  
12 required to be collocated with the liaisons from the Departments of Commerce, Environment and  
13 Natural Resources, and Transportation.

14 No later than January 1, 2015, the State Board of Education shall designate at least one  
15 representative from a local school administrative unit or from the Department of Public Instruction  
16 to serve as a liaison in each Collaboration for Prosperity Zone for the local school administrative  
17 units and other public schools within the zone. These liaisons are not required to be collocated  
18 with the liaisons from the Departments of Commerce, Environment and Natural Resources, and  
19 Transportation."

20 **SECTION 13.(b)** There is appropriated from the General Fund to the Department of  
21 Commerce the sum of three hundred thirty-six thousand dollars (\$336,000) in recurring funds for  
22 the 2016-2017 fiscal year to fund the positions set forth in this section and to accomplish the  
23 purposes set forth in this section.

24 **SECTION 13.(c)** This Part becomes effective July 1, 2016.

#### 25 **PART XIV. COMMUNITY ECONOMIC DEVELOPMENT SUPPORT**

26 **SECTION 14.(a)** The Department of Commerce is authorized to contract with a  
27 North Carolina foundation exempt under section 501(c)(3) of the Internal Revenue Code  
28 (nonprofit foundation) for the purpose of creating a public-private partnership to administer a  
29 program, in conjunction with North Carolina State University, to devise and implement a  
30 three-year plan to assist the most distressed rural counties in North Carolina by leveraging private  
31 economic development expertise and existing State economic development entities. It is the intent  
32 of the General Assembly to provide the support established in this section to at least 24  
33 communities in the State over the next three years. The nonprofit foundation shall identify no  
34 more than eight communities per year; provided that, no more than one community comes from a  
35 single Collaboration for Prosperity Zone and that the nonprofit foundation selects recipient  
36 communities that are among the most distressed in each zone. The nonprofit foundation will  
37 deliver, at a minimum, the following to each selected community: (i) establishing a current  
38 economic reality, including conducting competitiveness assessments; (ii) developing realistic  
39 goals for future economic development, including identifying anticipated future economic  
40 opportunities, and implementing local strategic action agendas that move the community from its  
41 current position to a more economically competitive position; (iii) creating a local leadership  
42 structure for plan implementation, including coordinating relevant economic development leaders  
43 and expertise, and providing professional and technical support to local leadership; and (iv)  
44 providing other aid to ensure necessary specific actions that will improve local economic  
45 prosperity are identified and undertaken. The oversight framework of G.S. 143B-431.01(c) applies  
46 to the contract authorized by this subsection.

47 **SECTION 14.(b)** Any contract entered into under this section must include all of the  
48 following:

49 (1) A requirement that the nonprofit foundation provide the following:

50 a. All support functions identified in subsection (a) of this section.  
51

- 1 b. A consultant team to create and manage an action agenda to identify and  
2 develop strategies for progressive economic development and to provide  
3 support implementation.
- 4 c. An economic analysis of the community, including review of any  
5 identified economic development assets in the community identified by  
6 the most recent comprehensive strategic economic development plan  
7 required pursuant to G.S. 143B-434.01.
- 8 d. Local training on global trends, including how the trends impact the  
9 community.
- 10 e. Local leadership training and support to educate the leadership on all  
11 available State economic development aid, to identify areas of  
12 collaboration with surrounding communities that may be leveraged for  
13 economic benefit, to strengthen industrial recruitment skills and  
14 capacities, and to engage and align all groups within the community.
- 15 f. Public input collection and management.
- 16 g. A multiyear strategic action agenda.
- 17 h. A minimum of two years of active support for plan implementation  
18 from the nonprofit foundation, including continued procurement of  
19 support from various existing State organizations and private  
20 consultants, including, at a minimum, the following:
- 21 1. For small business assistance, community college small business  
22 centers.
- 23 2. For mid-sized and high-growth businesses and export  
24 promotion, the Small Business Technology and Development  
25 Center.
- 26 3. For support of agriculture and agribusiness, the North Carolina  
27 Cooperative Extension Service.
- 28 4. For support of manufacturing companies, NC State Industry  
29 Expansion Solutions.
- 30 5. For tourism planning, the Department of Commerce or a  
31 nonprofit foundation with which the Department contracts  
32 pursuant to G.S. 143B-431.01.
- 33 6. For research support, the Labor and Economic Analysis Division  
34 with the Department of Commerce.
- 35 7. For business engagement, local chambers with the North  
36 Carolina Chamber of Commerce.
- 37 i. At least two multiple-community, joint, learning and support meetings  
38 per year, in which the leadership teams of the selected communities for  
39 the year meet for joint training, best practice sharing, and support. Costs  
40 for and arrangement of the meetings shall be borne by the nonprofit  
41 foundation.
- 42 (2) A requirement for three years of services and support consistent with this  
43 section for each community, limiting compensation to no more than thirty-four  
44 thousand dollars (\$34,000) per community for services performed in the first  
45 year, seven thousand dollars (\$7,000) for services performed in year two, and  
46 seven thousand dollars (\$7,000) for services performed in year three.
- 47 (3) A requirement that the nonprofit foundation provide, by September 1 of each  
48 year and more frequently as requested, a report to the Department on prior State  
49 fiscal year program activities, objectives, and accomplishments and prior State  
50 fiscal year itemized expenditures. The Department shall, by September 30 of  
51 each year and more frequently as requested, submit the report required by this

1 subdivision, along with an executive summary of the report, to the Joint  
2 Legislative Economic Development and Global Engagement Oversight  
3 Committee and the Fiscal Research Division.

4 **SECTION 14.(c)** There is appropriated from the General Fund to the Department of  
5 Commerce the sum of three hundred eighty-four thousand dollars (\$384,000) in nonrecurring  
6 funds for the 2016-2017 fiscal year to be used for the contracting of functions provided in this  
7 section.

8 **SECTION 14.(d)** This Part becomes effective July 1, 2016.

9

10 **PART XV. EFFECTIVE DATE**

11 **SECTION 15.** Except as otherwise provided, this act is effective when it becomes  
12 law.