

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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SENATE BILL DRS45323-MC-153

Short Title: The Hustle Act.

(Public)

Sponsors: Senators Garrett, Batch, and Salvador (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT HELPING UNDERSERVED SMALL-BUSINESS TRIUMPH THROUGH
3 LENDING ENHANCEMENT.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 10 of Chapter 143B of the General Statutes is amended by
6 adding a new Part to read:

7 "Part 20A.

8 "Small Business Capital Access.

9 "§ 143B-271.113. Small Business Capital Access Act.

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

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

13 (1) Small businesses and MWBEs are vital to North Carolina's economy, creating
14 jobs and driving innovation throughout the State.

15 (2) Despite their importance, these businesses face persistent barriers to accessing
16 capital necessary for startup, operation, and growth.

17 (3) Existing capital access programs have gaps that leave many qualified
18 businesses unable to secure necessary financing.

19 (4) Targeted interventions have proven successful in other states and countries in
20 addressing these capital access disparities.

21 (5) North Carolina has an opportunity to strengthen its economy by implementing
22 a coordinated strategy to expand capital access for small businesses and
23 MWBEs.

24 (c) Purpose. – The purpose of this Act is to establish a comprehensive framework to
25 expand access to capital for small businesses and Minority and Women-Owned Business
26 Enterprises throughout North Carolina through coordinated loan guarantees, direct investment,
27 support for community lenders, technical assistance, and incentives for private investment.

28 (d) Definitions. – The following definitions apply in this Act:

29 (1) Board. – The Small Business Capital Access Oversight Board established by
30 this Act.

31 (2) CDFI. – A Community Development Financial Institution certified by the
32 U.S. Department of the Treasury.

33 (3) Department. – The North Carolina Department of Commerce.

34 (4) Fund. – The North Carolina Small Business Capital Access Fund.



* D R S 4 5 3 2 3 - M C - 1 5 3 *

- 1 (5) Growth-stage business. – A business that has established a viable product or
2 service and is seeking capital to expand operations, market reach, or product
3 offerings.
- 4 (6) MWBE. – A minority or women-owned business enterprise certified by the
5 North Carolina Office for Historically Underutilized Businesses.
- 6 (7) Office. – The Office of Small Business Capital Access.
- 7 (8) Program. – The North Carolina Small Business Capital Access Program.
- 8 (9) Small business. – A business that employs fewer than 500 full-time
9 employees.
- 10 (10) Technical assistance. – Professional guidance provided to business owners in
11 areas including but not limited to business planning, financial management,
12 marketing, operations, technology, and accessing capital.
- 13 (11) Underserved community. – A census tract that is designated as a low-income
14 community according to the most recent data from the U.S. Census Bureau or
15 is located in a rural area as defined by the North Carolina Rural Center.
- 16 (e) Office established, duties. – There is established within the Department of Commerce
17 the Office of Small Business Capital Access. The Office shall be headed by a Director appointed
18 by the Secretary of Commerce, who shall have substantial experience in small business financing,
19 economic development, or MWBE support. The Office shall fulfil the following duties:
- 20 (1) Administer all components of the North Carolina Small Business Capital
21 Access Program.
- 22 (2) Develop program guidelines, application procedures, and evaluation metrics.
- 23 (3) Coordinate with other state agencies providing services to small businesses
24 and MWBEs.
- 25 (4) Conduct outreach to ensure participation by businesses in all regions of the
26 State.
- 27 (5) Collect and analyze data on program outcomes.
- 28 (6) Submit annual reports to the General Assembly and the Governor.
- 29 (7) Seek additional funding through federal grants, philanthropic sources, and
30 other avenues.
- 31 (f) Board established, duties. – There is established the Small Business Capital Access
32 Oversight Board to provide strategic guidance for the Program by (i) reviewing and approving
33 program guidelines developed by the Office; (ii) monitoring program performance and outcomes;
34 (iii) advising on strategic priorities and capital deployment strategies; (iv) ensuring the Program
35 reaches underserved communities and populations; (v) meeting at least quarterly; and (vi)
36 submitting annual recommendations to the Governor and General Assembly. Board members
37 shall serve four-year terms; provided that, initial appointments, as determined by the Board, shall
38 be staggered to ensure at least two members are appointed annually. The Board shall consist of
39 11 members as follows:
- 40 (1) The Secretary of Commerce or the Secretary's designee, who shall serve as
41 chair.
- 42 (2) The State Treasurer or the Treasurer's designee.
- 43 (3) The President of the North Carolina Rural Center or the President's designee.
- 44 (4) Two members appointed by the Governor, including one representative of a
45 certified MWBE and one representative of a financial institution active in
46 small business lending.
- 47 (5) Two members appointed by the General Assembly upon the recommendation
48 of President Pro Tempore of the Senate, including one representative of a
49 CDFI operating in North Carolina and one small business owner from a rural
50 county.

1 (6) Two members appointed by the General Assembly upon recommendation of
2 the Speaker of the House of Representatives, including one representative of
3 a chamber of commerce or business association; and one small business owner
4 from an urban county.

5 (7) One member appointed by the North Carolina Black Entrepreneurship
6 Council.

7 (8) One member appointed by the North Carolina Hispanic Chamber of
8 Commerce.

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

16 (1) The Small Business Loan Guarantee Program to increase lending to small
17 businesses and MWBEs by reducing risk for private lenders. Required
18 guidelines for the Small Business Loan Guarantee Program include, but are
19 not limited to, the following:

20 a. The Small Business Loan Guarantee Program shall function to (i)
21 provide guarantees for loans made by qualified lenders to eligible
22 small businesses and MWBEs; (ii) cover up to 90 percent of the loan
23 amount for MWBEs and up to 80 percent for other small businesses;
24 (iii) prioritize businesses that have been denied traditional financing
25 despite viable business models; (iv) establish maximum guarantee
26 amounts based on available funding; and (v) Require reasonable fees
27 to support program sustainability.

28 b. Eligible lenders are limited to (i) community banks; (ii) credit unions;
29 (iii) certified CDFIs; (iv) minority depository institutions; and (v)
30 other regulated financial institutions with small business lending
31 experience.

32 c. Eligible borrowers shall include small businesses and MWBEs that
33 meet all of the following requirements:

34 1. Are headquartered and operating in North Carolina.

35 2. Have been in operation for at least one year.

36 3. Demonstrate, to the satisfaction of the Office, sound business
37 practices and growth potential.

38 4. Have been unable to secure adequate financing through
39 conventional channels.

40 5. Will use loan proceeds for business purposes approved by the
41 Office, including working capital, equipment, inventory, or
42 expansion.

43 d. The Office shall develop a streamlined application process for lenders
44 and borrowers.

45 e. The Office shall establish a loan loss reserve to cover potential
46 defaults.

47 (2) The North Carolina MWBE Growth Fund shall function to provide equity and
48 near-equity capital to growth-stage MWBEs. Required guidelines for the Fund
49 include, but are not limited to, the following:

50 a. The Fund shall function to (i) make direct investments in qualified
51 MWBEs; (ii) focus on assisting businesses with proven business

- 1 models seeking growth capital; (iii) structure investments as equity,
2 convertible debt, revenue-based financing, or other flexible
3 instruments; (iv) make investments ranging from two hundred fifty
4 thousand dollars (\$250,000) to two million dollars (\$2,000,000); (v)
5 require co-investment from private investors on terms to be
6 determined by the Office; (vi) prioritize investments that will create
7 quality jobs in North Carolina; and (vii) Reinvest returns from
8 successful investments to ensure Fund sustainability.
- 9 b. The Office shall contract with an experienced fund manager selected
10 through a competitive process to manage the Fund, with oversight
11 from the Board.
- 12 c. The fund manager shall meet all of the following requirements:
- 13 1. Have demonstrated experience in MWBE investment.
14 2. Have a track record of successful investments in growth-stage
15 businesses.
16 3. Reflect the diversity of North Carolina in its leadership and
17 team.
18 4. Provide regular reports to the Office and Board on Fund
19 performance.
20 5. Provide post-investment support to portfolio companies.
- 21 (3) The CDFI Support Initiative to strengthen the capacity of Community
22 Development Financial Institutions serving North Carolina communities.
23 Required guidelines for the Initiative include, but are not limited to, the
24 following:
- 25 a. The Initiative shall function to (i) provide direct grants to certified
26 CDFIs operating in North Carolina; (ii) offer low-cost loan capital for
27 CDFI relending programs; (iii) support capacity building for CDFI
28 operations; and (iv) facilitate partnerships between CDFIs and
29 traditional financial institutions.
- 30 b. Grant funds may be used for (i) loan loss reserves; (ii) operating
31 support; (iii) technology improvements; (iv) product development;
32 and (v) technical assistance capacity.
- 33 c. Priority shall be given to CDFIs that (i) primarily serve rural areas or
34 underserved urban communities; (ii) demonstrate strong performance
35 and financial management; (iii) show substantial lending impact in
36 target communities; and (iv) leverage additional private capital.
- 37 d. Reporting on performance and grant funds shall be provided by
38 certified CDFIs as required by the Office.
- 39 (4) The Small Business Technical Assistance Network to ensure businesses
40 receiving capital are prepared to use it effectively. Required guidelines for the
41 Network include, but are not limited to, the following:
- 42 a. The Initiative shall function to (i) provide business development
43 services to participants in all Program components; (ii) coordinate
44 existing technical assistance providers throughout the State; (iii) fund
45 expanded capacity for high-performing providers; (iv) develop
46 specialized assistance for specific industries or business needs; and (v)
47 ensure services are accessible in all regions of the State.
- 48 b. Services provided shall include all of the following:
- 49 1. Business planning and financial management.
50 2. Market analysis and marketing strategy.
51 3. Operations and human resources support.

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

1 d. The Office shall establish guidelines for each program component in
 2 consultation with the North Carolina Board of Science, Technology &
 3 Innovation.

4 (h) The North Carolina Small Business Capital Access Fund is established as a special
 5 revenue fund in the Department of Commerce. The Fund shall consist of (i) appropriations by
 6 the General Assembly; (ii) federal grant funds; (iii) private contributions and donations; (iv) loan
 7 repayments and investment returns; (v) fees collected from program participants; and (vi) interest
 8 earnings. The Fund shall be used exclusively for the purposes set forth in this section, including
 9 reasonable administrative expenses. The Office shall establish separate accounts within the Fund
 10 for different program components as necessary for proper financial management.

11 (i) The Office shall develop and implement a comprehensive evaluation framework to
 12 measure the impact and effectiveness of the Program. Performance metrics shall include at least
 13 (i) the number and demographics of businesses served by each program component; (ii) the
 14 amount of capital deployed, by program component, geographic region, industry, and business
 15 demographics; (iii) the number of jobs created and retained as a result of Program assistance; (iv)
 16 business revenue growth following program participation; (v) the amount of follow-on capital
 17 secured by participants; (vi) default rates and program sustainability; (vii) return on investment
 18 of public funds; and (viii) the economic impact in underserved communities. The Office contract
 19 for and procure an independent evaluation by a qualified external entity every three years and
 20 shall submit an annual report to the Governor and General Assembly by October 1, which shall
 21 include all of the following:

22 (1) Detailed information on program activities and outcomes.

23 (2) Financial statements for the Fund.

24 (3) Analysis of program effectiveness.

25 (4) Recommendations for program improvements.

26 (5) Other information requested by the Board.

27 (6) A copy of the report produced as a result of the independent evaluation
 28 required by this subsection in years in which it is produced."

29 **SECTION 2.** Tax Credit. – Part 5 of Article 4 of Subchapter I of Chapter 105 of the
 30 General Statutes is reenacted as it existed immediately before its repeal and reads as rewritten:

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

32 **"§ 105-163.010. Definitions.**

33 The following definitions apply in this Part:

34 (1) Affiliate. – An individual or business that controls, is controlled by, or is under
 35 common control with another individual or business.

36 (2) Business. – A corporation, partnership, limited liability company, association,
 37 or sole proprietorship operated for profit.

38 (3) Control. – A person controls an entity if the person owns, directly or
 39 indirectly, more than ten percent (10%) of the voting securities of that entity.
 40 As used in this subdivision, the term "voting security" means a security that
 41 (i) confers upon the holder the right to vote for the election of members of the
 42 board of directors or similar governing body of the business or (ii) is
 43 convertible into, or entitles the holder to receive upon its exercise, a security
 44 that confers such a right to vote. A general partnership interest is a voting
 45 security.

46 (3a) Eligible investor. – A person subject to one or more of the following:

47 a. The franchise tax levied in Article 3 of this Chapter.

48 b. The income taxes levied in Article 4 of this Chapter.

49 c. The gross premiums tax levied in Article 8B of this Chapter.

50 (3b) Eligible business. – A business that (i) is registered with the Secretary of State
 51 under G.S. 105-163.013, (ii) has received during the current year or any of the

preceding three years assistance from the Office of Small Business Capital Access pursuant to G.S. 143B-271.113, (iii) is headquartered and primarily operating in this State, (iv) has been in operation at least one year, (v) during its most recent fiscal year before filing an application for registration under G.S. 105 163.013, it had gross revenues, as determined in accordance with generally accepted accounting principles, of five million dollars (\$5,000,000) or less on a consolidated basis, and (vi) has 100 or fewer full-time employees.

(4) Equity security. – Common stock, preferred stock, or an interest in a partnership, or subordinated debt that is convertible into, or entitles the holder to receive upon its exercise, common stock, preferred stock, or an interest in a partnership.

(5) Financial institution. – A business that is (i) a bank holding company, as defined in the Bank Holding Company Act of 1956, 12 U.S.C. §§ 1841, et seq., or its wholly owned subsidiary, (ii) registered as a broker-dealer under the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a, et seq., or its wholly owned subsidiary, (iii) an investment company as defined in the Investment Company Act of 1940, 15 U.S.C. §§ 80a-1, et seq., whether or not it is required to register under that act, (iv) a small business investment company as defined in the Small Business Investment Act of 1958, 15 U.S.C. §§ 661, et seq., (v) a pension or profit-sharing fund or trust, or (vi) a bank, savings institution, trust company, financial services company, or insurance company. The term does not include, however, a business, other than a small business investment company, whose net worth, when added to the net worth of all of its affiliates, is less than ten million dollars (\$10,000,000). The term also does not include a business that does not generally market its services to the public and is controlled by a business that is not a financial institution.

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

~~a. A domestic or foreign corporation that (i) is tax exempt pursuant to section 501(c)(3) of the Code, (ii) has as its principal purpose the stimulation of the development of the biotechnology industry, and (iii) in furtherance of that purpose has received, or is a successor in interest to an organization that has received, direct appropriations from the State in at least three fiscal years.~~

~~b. A domestic or foreign corporation that meets the following three conditions:~~

~~1. It is tax exempt pursuant to section 501(c)(3) of the Code, is a private foundation pursuant to section 509 of the Code, or is an affiliate of either of the foregoing.~~

~~2. It has as its principal purpose one of the following: conducting research and development in, or stimulating the development of, electronic, photonic, information, or other technologies, which may include investing in companies that provide research, development, products, or services in these technologies.~~

~~3. It meets one of the following conditions:~~

~~I. It received direct appropriations in furtherance of one of these purposes from the State in at least three fiscal years.~~

~~II. It was organized to perform one of these purposes for an organization that meets condition I of this sub-subdivision.~~

1 ~~conduct a business that is not itself a real estate related business or (ii) a~~
 2 ~~business that is not otherwise a real estate related business but that leases,~~
 3 ~~subleases, or otherwise provides to one or more other persons a number of~~
 4 ~~square feet of space which in the aggregate does not exceed fifty percent~~
 5 ~~(50%) of the number of square feet of space occupied by the business for its~~
 6 ~~other activities.~~

7 (10a) ~~Related person.—A person described in one of the relationships set forth in~~
 8 ~~section 267(b) or 707(b) of the Code.~~

9 (11) ~~Security. – A security as defined in Section 2(1) of the Securities Act of 1933,~~
 10 ~~15 U.S.C. § 77b(1).~~

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

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

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

32 **"§ 105-163.011. Tax credits allowed.**

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

36 (b) ~~Individuals.—Eligible Investors. – Subject to the limitations contained in~~
 37 ~~G.S. 105-163.012, an individual-eligible investor who purchases the equity securities or~~
 38 ~~subordinated debt of a qualified businessan eligible business directly from that business is~~
 39 ~~allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount~~
 40 ~~equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit~~
 41 ~~allowed an individual-eligible investor for one or more investments made in a single taxable year~~
 42 ~~under this Part, whether directly or indirectly as owner of a pass-through entity, may not be less~~
 43 ~~than ten thousand dollars (\$10,000) and may not exceed fifty-five hundred thousand dollars~~
 44 ~~(\$50,000)-(\$500,000). The credit may not be taken for the year in which the investment is made~~
 45 ~~but may be taken for the taxable year beginning during the calendar year in which the application~~
 46 ~~for the credit becomes effective as provided in subsection (c) of this section.~~

47 (b1) ~~Pass Through Entities.—This subsection does not apply to a pass through entity that~~
 48 ~~has committed capital under management in excess of five million dollars (\$5,000,000) or to a~~
 49 ~~pass through entity that is a qualified business or a North Carolina Enterprise Corporation.~~
 50 ~~Subject to the limitations provided in G.S. 105-163.012, a pass through entity that purchases the~~
 51 ~~equity securities or subordinated debt of a qualified business directly from the business is eligible~~

1 for a tax credit equal to twenty five percent (25%) of the amount invested. The aggregate amount
2 of credit allowed a pass-through entity for one or more investments made in a single taxable year
3 under this Part, whether directly or indirectly as owner of another pass-through entity, may not
4 exceed seven hundred fifty thousand dollars (\$750,000). The pass-through entity is not eligible
5 for the credit for the year in which the investment by the pass-through entity is made but is
6 eligible for the credit for the taxable year beginning during the calendar year in which the
7 application for the credit becomes effective as provided in subsection (c) of this section.

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

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

17 (b2) Credit Bonus. – The credit allowed under this Part shall be increased by ten percent
18 (10%) of the credit amount if the amount generating the credit is invested in an eligible business
19 that is (i) located in a development tier one area or development tier two area, as defined in
20 G.S. 143B-437.08, (ii) an MWBE, as defined in G.S. X, or (iii) both.

21 (c) Application. – To be eligible for the tax credit provided in this section, the taxpayer
22 eligible investor must file an application for the credit with the Secretary. The application should
23 be filed on or before April 15 of the year following the calendar year in which the investment
24 was made. The Secretary may not accept an application filed after October 15 of the year
25 following the calendar year in which the investment was made. An application is effective for
26 the year in which it is timely filed. The application must be on a form prescribed by the Secretary
27 and must include any supporting documentation that the Secretary may require. If an investment
28 for which a credit is applied for was paid for other than in money, the taxpayer must include with
29 the application a certified appraisal of the value of the property used to pay for the investment.
30 The application for a credit for an investment made by a pass-through entity must be filed by the
31 pass-through entity.

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

33 **"§ 105-163.012. Limit; carry-over; ceiling; reduction in basis.**

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

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

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

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

5 ~~"§ 105-163.013. Registration.~~

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

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

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

15 ~~(1a) Reserved for future codification purposes.~~

16 ~~(1b) Either (i) it was organized after January 1 of the calendar year in which its~~
17 ~~application is filed or (ii) during its most recent fiscal year before filing the~~
18 ~~application, it had gross revenues, as determined in accordance with generally~~
19 ~~accepted accounting principles, of five million dollars (\$5,000,000) or less on~~
20 ~~a consolidated basis.~~

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

22 ~~(3) It is organized to engage primarily in manufacturing, processing,~~
23 ~~warehousing, wholesaling, research and development, or a service-related~~
24 ~~industry.~~

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

26 ~~a. Providing a professional service as defined in Chapter 55B of the~~
27 ~~General Statutes.~~

28 ~~b. Construction or contracting.~~

29 ~~c. Selling or leasing at retail.~~

30 ~~d. The purchase, sale, or development, or purchasing, selling, or holding~~
31 ~~for investment of commercial paper, notes, other indebtedness,~~
32 ~~financial instruments, securities, or real property, or otherwise make~~
33 ~~investments.~~

34 ~~e. Providing personal grooming or cosmetics services.~~

35 ~~f. Offering any form of entertainment, amusement, recreation, or athletic~~
36 ~~or fitness activity for which an admission or a membership is charged.~~

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

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

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

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

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

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

15 (b1) ~~Qualified Licensee Businesses.~~ In order to qualify as a qualified licensee business
16 under this Part, a business must be registered with the Securities Division of the Department of
17 the Secretary of State. To register, the business must file with the Secretary of State an application
18 and any supporting documents the Secretary of State may require from time to time to determine
19 that the business meets the requirements for registration as a qualified licensee business. The
20 requirements for registration as a qualified licensee business are set out in G.S. 105-163.010.

21 The effective date of registration for a qualified licensee business whose application is
22 accepted for registration is the filing date of its application. No credit is allowed under this Part
23 for an investment made before the effective date of the registration or after the registration is
24 revoked.

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

30 Failure of a qualified licensee venture to renew its registration by the applicable deadline
31 results in revocation of its registration effective as of the next day after the renewal deadline, but
32 does not result in forfeiture of tax credits previously allowed to taxpayers who invested in the
33 business except as provided in G.S. 105-163.014. The Secretary of State shall send the qualified
34 licensee business notice of revocation within 60 days after the renewal deadline. A qualified
35 licensee business may apply to have its registration reinstated by the Secretary of State by filing
36 an application for reinstatement, accompanied by the reinstatement application fee and a late
37 filing penalty of one thousand dollars (\$1,000), within 30 days after receipt of the revocation
38 notice from the Secretary of State. A business that seeks approval of a new application for
39 registration after its registration has been revoked must also pay a penalty of one thousand dollars
40 (\$1,000). A registration that has been reinstated is treated as if it had not been revoked.

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

44 (c) ~~Qualified Grantee Businesses.~~ In order to qualify as a qualified grantee business
45 under this Part, a business must be registered with the Securities Division of the Department of
46 the Secretary of State. To register, the business must file with the Secretary of State an application
47 and any supporting documents the Secretary of State may require from time to time to determine
48 that the business meets the requirements for registration as a qualified grantee business. The
49 requirements for registration as a qualified grantee business are set out in G.S. 105-163.010.

50 The effective date of registration for a qualified grantee business whose application is
51 accepted for registration is the filing date of its application. No credit is allowed under this Part

1 for an investment made before the effective date of the registration or after the registration is
2 revoked.

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

6 ~~(d) — Application Forms; Rules; Fees. — Applications for registration, renewal of
7 registration, and reinstatement of registration under this section shall be in the form required by
8 the Secretary of State. The Secretary of State may, by rule, require applicants to furnish
9 supporting information in addition to the information required by subsections (b), (b1), and (c)
10 of this section. The Secretary of State may adopt rules in accordance with Chapter 150B of the
11 General Statutes that are needed to carry out the Secretary's responsibilities under this Part. The
12 Secretary of State shall prepare blank forms for the applications and shall distribute them
13 throughout the State and furnish them on request. Each application shall be signed by the owners
14 of the business or, in the case of a corporation, by its president, vice president, treasurer, or
15 secretary. There shall be annexed to the application the affirmation of the person making the
16 application in the following form: "Under penalties prescribed by law, I certify and affirm that
17 to the best of my knowledge and belief this application is true and complete." A person who
18 submits a false application is guilty of a Class 1 misdemeanor.~~

19 ~~The fee for filing an application for registration under this section is one hundred dollars
20 (\$100.00). The fee for filing an application for renewal of registration under this section is fifty
21 dollars (\$50.00). The fee for filing an application for reinstatement of registration under this
22 section is fifty dollars (\$50.00).~~

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

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

35 ~~(f) — Transfer of Registration. — A registration as a qualified business may not be sold or
36 otherwise transferred, except that if a qualified business enters into a merger, conversion,
37 consolidation, or other similar transaction with another business and the surviving company
38 would otherwise meet the criteria for being a qualified business, the surviving company retains
39 the registration without further application to the Secretary of State. In such a case, the qualified
40 business must provide the Secretary of State with written notice of the merger, conversion,
41 consolidation, or similar transaction and the name, address, and jurisdiction of incorporation or
42 organization of the surviving company.~~

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

51 **"§ 105-163.014. Forfeiture of credit.**

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

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

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

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

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

38 In the event the taxpayer transfers fewer than all the securities in a manner that would result
39 in a forfeiture, the amount of the credit that is forfeited is the product obtained by multiplying
40 the aggregate credit attributable to the investment by a fraction whose numerator equals the
41 number of securities transferred and whose denominator equals the number of securities received
42 on account of the investment to which the credit was attributable. In addition, if the redemption
43 amount is less than the amount invested by the taxpayer in the securities to which the redemption
44 is attributable, the amount of the credit that is forfeited is further reduced by multiplying it by a
45 fraction whose numerator equals the redemption amount and whose denominator equals the
46 aggregate amount invested by the taxpayer in the securities involved in the redemption. The term
47 "redemption amount" means all amounts paid that are treated as a distribution in part or full
48 payment in exchange for securities under section 302(a) of the Code.

49 ~~(d1) Certain Redemptions Allowed. Forfeiture of a credit does not occur under this~~
50 ~~section if a qualified business venture that engages primarily in motion picture film production~~

1 ~~makes a redemption with respect to securities received in an investment and the following~~
2 ~~conditions are met:~~

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

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

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

13 ~~"§ 105-163.015. Sunset.~~

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

15 **SECTION 3.** Appropriations. – There is appropriated from the General Fund to the
16 Department of Commerce the recurring sum of \$50,000,000 for the 2025-2026 fiscal year to
17 establish and implement the North Carolina Small Business Capital Access Program. Funds
18 appropriated by this act shall not revert but shall remain available until expended. The
19 Department shall allocate the funds as follows:

20 (1) \$20,000,000 to the Small Business Loan Guarantee Program.

21 (2) \$10,000,000 to the North Carolina MWBE Growth Fund.

22 (3) \$5,000,000 to the CDFI Support Initiative.

23 (4) \$5,000,000 to the Small Business Technical Assistance Network.

24 (5) \$5,000,000 to the State Procurement Financing Initiative.

25 (6) \$4,000,000 to the Small Business Innovation Fund.

26 (7) \$1,000,000 for administrative costs.

27 **SECTION 4.** Rulemaking. – The Department of Commerce shall adopt rules
28 necessary to implement the provisions of this Act.

29 **SECTION 5.** Severability. – If any provision of this act or its application is held
30 invalid, the invalidity does not affect other provisions or applications of this act that can be given
31 effect without the invalid provisions or application, and to this end the provisions of this act are
32 severable.

33 **SECTION 6.** Effective Date. – This act becomes effective July 1, 2026. Within 60
34 days of the effective date of this act, the Secretary of Commerce shall appoint the Director of the
35 Office of Small Business Capital Access. Within 90 days of the effective date of this act, all
36 appointments to the Board shall be completed, and the Board shall hold its first meeting. Within
37 180 days of the effective date of this act, the Office shall develop and publish program guidelines
38 for all program components. Within one year of the effective date of this act, the Office shall
39 implement the Small Business Loan Guarantee Program, the CDFI Support Initiative, the Small
40 Business Technical Assistance Network; and a unified application system for all components.
41 Within two years of the effective date of this act, the Office shall implement the North Carolina
42 MWBE Growth Fund, the State Procurement Financing Initiative, and the initial regional
43 innovation hubs.