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SENATE BILL DRS35450-MCfa-248

Short Title: NC Small Business Capital & Jobs Act.

(Public)

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

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE NC SMALL BUSINESS CAPITAL AND JOBS ACT.
3 The General Assembly of North Carolina enacts:

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

6 "Part 20A. Small Business Capital Access.

7 **"§ 143B-271.113. Small Business Capital Access Act.**

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

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

11 (1) Small businesses and businesses in underserved communities are vital to
12 North Carolina's economy, creating jobs and driving innovation throughout
13 the State.

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

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

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

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

23 (c) Purpose. – The purpose of this Act is to establish a comprehensive framework to
24 expand access to capital for small businesses and businesses in underserved communities,
25 disadvantaged areas, and census tracts with persistent poverty throughout North Carolina through
26 coordinated loan guarantees, direct investment, support for community lenders, technical
27 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.



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- 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) Office. – The Office of Small Business Capital Access.
5 (7) Program. – The North Carolina Small Business Capital Access Program.
6 (8) Qualifying business. – A business located in an underserved community.
7 (9) Small business. – A business that employs fewer than 500 full-time
8 employees.
9 (10) Technical assistance. – Professional guidance provided to business owners in
10 areas including but not limited to business planning, financial management,
11 marketing, operations, technology, and accessing capital.
12 (11) Underserved community. – A census tract that is designated as a low-income
13 community according to the most recent data from the U.S. Census Bureau or
14 is located in a rural area as defined by the North Carolina Rural Center.

15 (e) Office established, duties. – There is established within the Department of Commerce
16 the Office of Small Business Capital Access. The Office shall be headed by a Director appointed
17 by the Secretary of Commerce, who shall have substantial experience in small business financing,
18 economic development, or qualifying business support. The Office shall fulfil the following
19 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 qualifying businesses.
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 qualifying business 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 qualifying businesses by reducing risk for private lenders.
18 Required guidelines for the Small Business Loan Guarantee Program include,
19 but are 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 qualifying businesses; (ii) cover up to ninety
23 percent (90%) of the loan amount for such businesses located in
24 development tier one area, as defined in G.S. 143B-437.08 or in a
25 persistent poverty census tract and up to eighty percent (80%) for other
26 small businesses; (iii) prioritize businesses that have been denied
27 traditional financing despite viable business models; (iv) establish
28 maximum guarantee amounts based on available funding; and (v)
29 Require reasonable fees to support program sustainability.

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

34 c. Eligible borrowers shall include small businesses and qualifying
35 businesses that meet all of the following requirements:

36 1. Are headquartered and operating in North Carolina.

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

38 3. Demonstrate, to the satisfaction of the Office, sound business
39 practices and growth potential.

40 4. Have been unable to secure adequate financing through
41 conventional channels.

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

45 d. The Office shall develop a streamlined application process for lenders
46 and borrowers.

47 e. The Office shall establish a loan loss reserve to cover potential
48 defaults.

49 (2) The North Carolina Qualifying Business Growth Fund shall function to
50 provide equity and near-equity capital to growth-stage qualifying businesses.
51 Required guidelines for the Fund include, but are not limited to, the following:

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

1. Business planning and financial management.
 2. Market analysis and marketing strategy.
 3. Operations and human resources support.
 4. Technology adoption assistance.
 5. Certification preparation for government contracting.
 6. Capital readiness preparation.
 - c. The Office shall develop a simplified referral system to connect businesses to appropriate services.
 - d. The Office shall track technical assistance outcomes and their correlation with capital access program success.
- (6) The State Procurement Financing Initiative to help small businesses and qualifying businesses access the capital necessary to fulfill State contracts. Required guidelines for the Initiative include, but are not limited to, the following:
- a. The Initiative shall consist of the following:
 1. A mobilization capital program providing short-term loans to cover upfront costs of contract performance.
 2. A factoring program allowing businesses to obtain immediate payment on state contract invoices at favorable rates.
 3. A bonding assistance program to help contractors secure required performance and payment bonds.
 4. A quickpay requirement mandating that all State agencies pay approved invoices from small businesses and qualifying businesses within 15 days.
 - b. Eligible businesses must (i) be certified as a qualifying business or a small business; (ii) have been awarded a contract with a State agency or institution; and (iii) demonstrate the capacity to successfully complete the contract with appropriate financial support.
 - c. The Office shall coordinate with the Division of Purchase and Contract and other State contracting entities to implement the Initiative.
 - d. The guidelines created by the Office shall, for each program component, including application procedures, maximum assistance amounts, terms, and fees.
- (7) The Small Business Innovation Fund to support innovative small businesses with high growth potential. Required guidelines for the Fund include, but are not limited to, the following:
- a. The Fund shall function to (i) provide matching grants for recipients of federal Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) awards; (ii) support university technology commercialization partnerships with small businesses; (iii) fund regional innovation hubs in different parts of the state; and (iv) provide proof-of-concept grants for promising innovations with commercial potential.
 - b. The matching grant program shall do the following: (i) provide supplemental funding of up to 50 percent of the federal award amount, not to exceed \$100,000; (ii) be available to North Carolina-based recipients of Phase I SBIR or STTR awards; and (iii) include technical assistance to support successful Phase II applications.
 - c. Regional innovation hubs shall comply with the following: (i) be established in partnership with universities, community colleges, and private sector entities; (ii) provide physical space, equipment, and

1 resources for entrepreneurs; (iii) offer specialized programming for
2 innovative businesses; and (iv) connect entrepreneurs with capital
3 sources and business development resources.

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

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

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

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

26 (2) Financial statements for the Fund.

27 (3) Analysis of program effectiveness.

28 (4) Recommendations for program improvements.

29 (5) Other information requested by the Board.

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

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

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

35 "**§ 105-163.010. Definitions.**

36 The following definitions apply in this Part:

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

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

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

49 (3a) Eligible investor. – A person subject to one or more of the following:

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

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

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

(3b) Eligible business. – A business that (i) is registered with the Secretary of State 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, (vi) has 100 or fewer full-time employees and (vii) at least X number of its full-time employees are new employees, as those terms are defined in G.S. 143B-437.51 and were employed at least X weeks of the year for which a credit is under this Part is allowed.

(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:~~

- 1 I. It received direct appropriations in furtherance of one
2 of these purposes from the State in at least three fiscal
3 years.
4 II. It was organized to perform one of these purposes for
5 an organization that meets condition I of this
6 sub-subdivision.
7 III. It is an affiliate of an entity that meets condition II of
8 this sub-subdivision.
9 e. An institute that (i) is administratively located within a constituent
10 institution of The University of North Carolina, (ii) is financed in part
11 by a domestic or foreign corporation that is tax-exempt pursuant to
12 section 501(c)(3) of the Code, (iii) has as a principal purpose the
13 stimulation of economic development based on the advancement of
14 science, engineering, and technology, and (iv) funds, either directly or
15 in collaboration with other entities, small businesses engaging in
16 developing technology.
- 17 (6) North Carolina Enterprise Corporation. — A corporation established in
18 accordance with Article 3 of Chapter 53A of the General Statutes or a limited
19 partnership in which a North Carolina Enterprise Corporation is the only
20 general partner.
- 21 (7) Pass-through entity. — Defined in G.S. 105-228.90.
- 22 (7b) Qualified business. — A qualified business venture, a qualified grantee
23 business, or a qualified licensee business.
- 24 (8) Qualified business venture. — A business that (i) engages primarily in
25 manufacturing, processing, warehousing, wholesaling, research and
26 development, or a service-related industry, and (ii) is registered with the
27 Secretary of State under G.S. 105-163.013.
- 28 (9) Qualified grantee business. — A business that (i) is registered with the
29 Secretary of State under G.S. 105-163.013, and (ii) has received during the
30 current year or any of the preceding three years a grant, an investment, or other
31 funding from a federal agency under the Small Business Innovation Research
32 Program administered by the United States Small Business Administration or
33 from a granting entity as defined in this section.
- 34 (9a) Qualified licensee business. — A business that meets all of the following
35 conditions:
- 36 a. It is registered with the Secretary of State under G.S. 105-163.013.
- 37 b. During its most recent fiscal year before filing an application for
38 registration under G.S. 105-163.013, it had gross revenues, as
39 determined in accordance with generally accepted accounting
40 principles, of one million dollars (\$1,000,000) or less on a
41 consolidated basis.
- 42 e. It has been certified by a constituent institution of The University of
43 North Carolina or a research university as currently performing under
44 a licensing agreement with the institution or university for the purpose
45 of commercializing technology developed at the institution or
46 university. For the purpose of this section, a research university is an
47 institution of higher education classified as a Doctoral/Research
48 University, Extensive or Intensive, in the most recent edition of "A
49 Classification of Institutions of Higher Education", the official report
50 of The Carnegie Foundation for the Advancement of Teaching.

- 1 (10) ~~Real estate related business.—A business that is involved in or related to the~~
2 ~~brokerage, selling, purchasing, leasing, operating, or managing of hotels,~~
3 ~~motels, nursing homes or other lodging facilities, golf courses, sports or social~~
4 ~~clubs, restaurants, storage facilities, or commercial or residential lots or~~
5 ~~buildings is a real estate related business, except that a real estate related~~
6 ~~business does not include (i) a business that purchases or leases real estate~~
7 ~~from others for the purpose of providing itself with facilities from which to~~
8 ~~conduct a business that is not itself a real estate related business or (ii) a~~
9 ~~business that is not otherwise a real estate related business but that leases,~~
10 ~~subleases, or otherwise provides to one or more other persons a number of~~
11 ~~square feet of space which in the aggregate does not exceed fifty percent~~
12 ~~(50%) of the number of square feet of space occupied by the business for its~~
13 ~~other activities.~~
- 14 (10a) ~~Related person.—A person described in one of the relationships set forth in~~
15 ~~section 267(b) or 707(b) of the Code.~~
- 16 (11) ~~Security. – A security as defined in Section 2(1) of the Securities Act of 1933,~~
17 ~~15 U.S.C. § 77b(1).~~
- 18 (12) ~~Selling or leasing at retail.—A business is selling or leasing at retail if the~~
19 ~~business either (i) sells or leases any product or service of any nature from a~~
20 ~~store or other location open to the public generally or (ii) sells or leases~~
21 ~~products or services of any nature by means other than to or through one or~~
22 ~~more other businesses.~~
- 23 (13) ~~Service related industry.—A business is engaged in a service related industry,~~
24 ~~whether or not it also sells a product, if it provides services to customers or~~
25 ~~clients and does not as a substantial part of its business engage in a business~~
26 ~~described in G.S. 105-163.013(b)(4). A business is engaged as a substantial~~
27 ~~part of its business in an activity described in G.S. 105-163.013(b)(4) if (i) its~~
28 ~~gross revenues derived from all activities described in that subdivision exceed~~
29 ~~twenty five percent (25%) of its gross revenues in any fiscal year or (ii) it is~~
30 ~~established as one of its primary purposes to engage in any activities described~~
31 ~~in that subdivision, whether or not its purposes were stated in its articles of~~
32 ~~incorporation or similar organization documents.~~
- 33 (14) ~~Subordinated debt. – Indebtedness that is not secured and is subordinated to~~
34 ~~all other indebtedness of the issuer issued or to be issued to a financial~~
35 ~~institution other than a financial institution described in subdivisions (5)(ii)~~
36 ~~through (5)(v) of this section. Except as provided in G.S. 105-163.014(d1),~~
37 ~~any portion of indebtedness that matures earlier than five three years after its~~
38 ~~issuance is not subordinated debt.~~

39 **"§ 105-163.011. Tax credits allowed.**

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

43 (b) ~~Individuals.—Eligible Investors. – Subject to the limitations contained in~~
44 ~~G.S. 105-163.012, an individual eligible investor who purchases the equity securities or~~
45 ~~subordinated debt of a qualified business an eligible business directly from that business is~~
46 ~~allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount~~
47 ~~equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit~~
48 ~~allowed an individual eligible investor for one or more investments made in a single taxable year~~
49 ~~under this Part, whether directly or indirectly as owner of a pass-through entity, may not be less~~
50 ~~than ten thousand dollars (\$10,000) and may not exceed five five hundred thousand dollars~~
51 ~~(\$50,000)-(\$500,000). The credit may not be taken for the year in which the investment is made~~

1 but may be taken for the taxable year beginning during the calendar year in which the application
2 for the credit becomes effective as provided in subsection (c) of this section.

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

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

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

24 (b2) Credit Bonus. – The credit allowed under this Part shall be increased by ten percent
25 (10%) of the credit amount if the amount generating the credit is invested in an eligible business
26 that is (i) located in a development tier one area or development tier two area, as defined in
27 G.S. 143B-437.08, (ii) an MWBE, as defined in G.S. 143B-271.113, or (iii) both.

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

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

40 **"§ 105-163.012. Limit; carry-over; ceiling; reduction in basis.**

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

46 (b) The total amount of all tax credits allowed to taxpayers under G.S. 105-163.011 for
47 investments made in a calendar year may not exceed ~~seven million five hundred thousand~~
48 million dollars ~~(\$7,500,000).~~(\$10,000,000). The Secretary of Revenue shall calculate the total
49 amount of tax credits claimed from the applications filed pursuant to G.S. 105-163.011(c). If the
50 total amount of tax credits claimed for investments made in a calendar year exceeds this

1 maximum amount, the Secretary shall allow a portion of the credits claimed by allocating the
2 maximum amount in tax credits in proportion to the size of the credit claimed by each taxpayer.

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

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

12 ~~"§ 105-163.013. Registration.~~

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

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

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

22 (1a) ~~Reserved for future codification purposes.~~

23 (1b) ~~Either (i) it was organized after January 1 of the calendar year in which its~~
24 ~~application is filed or (ii) during its most recent fiscal year before filing the~~
25 ~~application, it had gross revenues, as determined in accordance with generally~~
26 ~~accepted accounting principles, of five million dollars (\$5,000,000) or less on~~
27 ~~a consolidated basis.~~

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

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

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

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

35 b. ~~Construction or contracting.~~

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

37 d. ~~The purchase, sale, or development, or purchasing, selling, or holding~~
38 ~~for investment of commercial paper, notes, other indebtedness,~~
39 ~~financial instruments, securities, or real property, or otherwise make~~
40 ~~investments.~~

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

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

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

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

47 ~~The effective date of registration for a qualified business venture whose application is~~
48 ~~accepted for registration is 60 days before the date its application is filed. No credit is allowed~~
49 ~~under this Part for an investment made before the effective date of the registration or after the~~
50 ~~registration is revoked. For the purpose of this Article, if a taxpayer's investment is placed~~
51 ~~initially in escrow conditioned upon other investors' commitment of additional funds, the date of~~

1 the investment is the date escrowed funds are transferred to the qualified business venture free
2 of the condition.

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

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

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

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

28 The effective date of registration for a qualified licensee business whose application is
29 accepted for registration is the filing date of its application. No credit is allowed under this Part
30 for an investment made before the effective date of the registration or after the registration is
31 revoked.

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

37 Failure of a qualified licensee venture to renew its registration by the applicable deadline
38 results in revocation of its registration effective as of the next day after the renewal deadline, but
39 does not result in forfeiture of tax credits previously allowed to taxpayers who invested in the
40 business except as provided in G.S. 105-163.014. The Secretary of State shall send the qualified
41 licensee business notice of revocation within 60 days after the renewal deadline. A qualified
42 licensee business may apply to have its registration reinstated by the Secretary of State by filing
43 an application for reinstatement, accompanied by the reinstatement application fee and a late
44 filing penalty of one thousand dollars (\$1,000), within 30 days after receipt of the revocation
45 notice from the Secretary of State. A business that seeks approval of a new application for
46 registration after its registration has been revoked must also pay a penalty of one thousand dollars
47 (\$1,000). A registration that has been reinstated is treated as if it had not been revoked.

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

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

7 ~~The effective date of registration for a qualified grantee business whose application is~~
8 ~~accepted for registration is the filing date of its application. No credit is allowed under this Part~~
9 ~~for an investment made before the effective date of the registration or after the registration is~~
10 ~~revoked.~~

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

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

27 ~~The fee for filing an application for registration under this section is one hundred dollars~~
28 ~~(\$100.00). The fee for filing an application for renewal of registration under this section is fifty~~
29 ~~dollars (\$50.00). The fee for filing an application for reinstatement of registration under this~~
30 ~~section is fifty dollars (\$50.00).~~

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

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

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

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

9 **"§ 105-163.014. Forfeiture of credit.**

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

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

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

28 (d) Transfer or Redemption of Investment. — A taxpayer who has received a credit under
29 this Part for an investment in a ~~qualified-an eligible~~ business forfeits the credit in the following
30 cases:

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

47 In the event the taxpayer transfers fewer than all the securities in a manner that would result
48 in a forfeiture, the amount of the credit that is forfeited is the product obtained by multiplying
49 the aggregate credit attributable to the investment by a fraction whose numerator equals the
50 number of securities transferred and whose denominator equals the number of securities received
51 on account of the investment to which the credit was attributable. In addition, if the redemption

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

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

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

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

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

21 ~~"§ 105-163.015. Sunset.~~

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

23 **SECTION 3.** Appropriations. — There is appropriated from the General Fund to the
24 Department of Commerce the sum of fifty million dollars (\$50,000,000) in recurring funds
25 beginning with the 2026-2027 fiscal year to establish and implement the North Carolina Small
26 Business Capital Access Program. Funds appropriated by this act shall not revert but shall remain
27 available until expended. The Department shall allocate the funds as follows:

28 (1) \$20,000,000 to the Small Business Loan Guarantee Program.

29 (2) \$10,000,000 to the North Carolina Qualifying Business Growth Fund.

30 (3) \$5,000,000 to the CDFI Support Initiative.

31 (4) \$5,000,000 to the Small Business Technical Assistance Network.

32 (5) \$5,000,000 to the State Procurement Financing Initiative.

33 (6) \$4,000,000 to the Small Business Innovation Fund.

34 (7) \$1,000,000 for administrative costs.

35 **SECTION 4.** Rulemaking. — The Department of Commerce shall adopt rules
36 necessary to implement the provisions of this Act.

37 **SECTION 5.** Severability. — If any provision of this act or its application is held
38 invalid, the invalidity does not affect other provisions or applications of this act that can be given
39 effect without the invalid provisions or application, and to this end the provisions of this act are
40 severable.

41 **SECTION 6.** Effective Date. — This act becomes effective July 1, 2026. Within 60
42 days of the effective date of this act, the Secretary of Commerce shall appoint the Director of the
43 Office of Small Business Capital Access. Within 90 days of the effective date of this act, all
44 appointments to the Board shall be completed, and the Board shall hold its first meeting. Within
45 180 days of the effective date of this act, the Office shall develop and publish program guidelines
46 for all program components. Within one year of the effective date of this act, the Office shall
47 implement the Small Business Loan Guarantee Program, the CDFI Support Initiative, the Small
48 Business Technical Assistance Network; and a unified application system for all components.
49 Within two years of the effective date of this act, the Office shall implement the North Carolina
50 MWBE Growth Fund, the State Procurement Financing Initiative, and the initial regional
51 innovation hubs.