

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 826

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

Sponsors: Senators Gunn, Brown, Hise (Primary Sponsors); Ballard, Curtis, Daniel, Ford, McInnis, Pate, Rabin, Tucker, and Woodard.

Referred to: Commerce

May 11, 2016

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

4 The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

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

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

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



1 available to each prospective investor and the Administrator the
2 documentation resulting from a financial audit or review with respect to
3 its most recently completed fiscal year and meeting generally accepted
4 accounting principles.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 "Article 3L.

38 "North Carolina New Markets Jobs Act.

39 **"§ 105-129.100. Short title.**

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

42 **"§ 105-129.101. Definitions.**

43 The following definitions apply in this Article:

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

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

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

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

10 (13) Secretary. – The Secretary of Commerce.

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

13 **"§ 105-129.102. Reduction for qualified equity investment.**

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

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

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

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

26 **"§ 105-129.103. Restrictions on transfer.**

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

33 **"§ 105-129.104. Application and award.**

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

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

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

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

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

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

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

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

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

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

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

38 **"§ 105-129.105. Recapture.**

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

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

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

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

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

23 **"§ 105-129.106. Cure period.**

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

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

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

33 **"§ 105-129.108. Annual report.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 ...

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

- 8 a. With respect to assets of the Escheat Fund, in addition to those
 9 investments authorized by subdivisions (1) through (6) of this
 10 subsection, up to ten percent (10%) of such assets may be invested in
 11 the investments authorized under subdivisions (6c) through (9a) of this
 12 subsection, notwithstanding the percentage limitations imposed on the
 13 Retirement Systems' investments under those subdivisions.
- 14 b. The State Treasurer shall engage a third-party professional actuary or
 15 consultant to conduct a valuation and projection of the financial status
 16 of the Escheat Fund. The associated costs for the services may be
 17 directly charged to the Escheat Fund. The State Treasurer shall
 18 communicate the valuation of the actuary or consultant in an annual
 19 report to the Governor, the Speaker of the House of Representatives, the
 20 President Pro Tempore of the Senate, and the chairs of the respective
 21 appropriations and appropriate substantive committees of each chamber.
 22 The annual report shall evaluate claims by owners upon the Escheat
 23 Fund, current and projected investment returns, and projected
 24 contributions to the Escheat Fund. In the report, the State Treasurer shall
 25 assess the status of utilizing the Escheat Fund as an endowment fund
 26 and shall recommend an annual amount available for the funding of
 27 scholarships, loans, and grants from the Fund. The annual report shall
 28 be presented no later than December 31 of each year.
- 29 c. The State Treasurer shall invest, in addition to those investments
 30 authorized by subdivision (12) of this subsection, ten percent (10%)
 31 of the net assets of the Escheat Fund as authorized under G.S. 147-69.2A.
- 32 d. With respect to assets of the Escheat Fund, in addition to those
 33 investments otherwise authorized by this subdivision, up to one hundred
 34 million dollars (\$100,000,000) of such assets may be invested as
 35 authorized under G.S. 147-69.2B."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 "...."

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

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

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

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

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

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

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

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

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

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

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

PART VI. DOT/PERMIT PROCESS REVISIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 **UNIVERSITY INNOVATION COMMERCIALIZATION GRANT PROGRAM**

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

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

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

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

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

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

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

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

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

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

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

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

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

15 **PART VIII. FOOD MANUFACTURING**

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

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

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

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

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

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

PART IX. TOURISM AND MARKETING EXPANSION

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

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

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

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

PART X. EXTEND RESEARCH AND DEVELOPMENT TAX CREDIT

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

"§ 105-129.51. Taxpayer standards and sunset.

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

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

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

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

PART XI. FUNDING FOR IDENTIFICATION OF UNDERUTILIZED STATE PROPERTY

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

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

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

11 ...

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

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

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

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

28 "

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9
10 **PART XV. EFFECTIVE DATE**

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