

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2002-99
HOUSE BILL 1520**

AN ACT TO EXTEND THE SUNSET ON TAX CREDITS FOR QUALIFIED BUSINESS INVESTMENTS, TO AMEND THE DEFINITION OF QUALIFIED GRANTEE BUSINESS, TO EXTEND THE SUNSET ON THE STATE PORTS TAX CREDIT, AND TO CLARIFY AND AMEND THE NORTH CAROLINA STATE PORTS AUTHORITY'S FEE-SETTING AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 7 of Chapter 443 of the 1993 Session Laws, as amended by Section 29A.15 of S.L. 1998-212, is repealed.

SECTION 2. Section 10 of Chapter 443 of the 1993 Session Laws, as amended by Section 29A.15 of S.L. 1998-212, reads as rewritten:

"Sec. 10. Section 6 of this act is effective upon ratification. ~~Section 7 of this act becomes effective for investments made on or after January 1, 2003.~~ The remainder of this act becomes effective for taxable years beginning on or after January 1, 1994.

A business registered as a qualified business venture or a qualified grantee business before January 1, 1994, retains its registration until the renewal date for the registration of that business under Part 5 of Article 4 of Chapter 105 of the General Statutes as in effect before January 1, 1994. The Secretary of State shall not grant renewal of a registration as a qualified business venture or a qualified grantee business unless at the time of filing the renewal application, the business meets the requirements then in effect for a new registration.

Notwithstanding the provisions of G.S. 105-163.014(a), as amended by this act, a credit under Part 5 of Article 4 of Chapter 105 of the General Statutes for an investment made before January 1, 1994, is not forfeited solely on the grounds that a sibling of the taxpayer provides services for compensation to the business in which the taxpayer invested.

Notwithstanding the provisions of G.S. 105-163.014(d), as amended by this act, a credit under Part 5 of Article 4 of Chapter 105 of the General Statutes for an investment made before January 1, 1994, is not forfeited solely on the grounds that a redemption of the securities received in the investment is made within five years after the investment was made.

The Secretary of State may require a qualified business venture or a qualified grantee business that is unable to renew its registration after January 1, 1994, to file reports the Secretary of State considers appropriate to determine the location of the headquarters and principal business operations of the business until three years after the date of the last investment in the business that qualified for the tax credit allowed under Part 5 of Article 4 of Chapter 105 of the General Statutes."

SECTION 3. G.S. 105-163.010(9) reads as rewritten:

"§ 105-163.010. **Definitions.**

The following definitions apply in this Part:

- (9) Qualified grantee business. – A business that (i) ~~has received during the preceding three years a grant or other funding from the North Carolina Technological Development Authority, the North Carolina Technological Development Authority, Inc., North Carolina First~~

~~Flight, Inc., the North Carolina Biotechnology Center, the Microelectronics Center of North Carolina, the Kenan Institute for Engineering, Technology and Science, or the Federal Small Business Innovation Research Program, and (ii) is registered with the Secretary of State under G.S. 105-163.013, 105-163.013, and (ii) has received during the preceding three years a grant or other funding from a federal agency under the Small Business Innovation Research Program administered by the United States Small Business Administration or from an organization that meets any of the following qualifications:~~

- a. ~~It is 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. ~~It is 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 microelectronics and communication industries, 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.~~
- c. ~~It is an institute that (i) is administratively located within a constituent institution of The University of North Carolina, (ii) is financed in part by a domestic or foreign corporation that is tax-exempt pursuant to section 501(c)(3) of the Code, (iii) has as a principal purpose the stimulation of economic development based on the advancement of science, engineering, and technology, and (iv) funds, either directly or in collaboration with other entities, small businesses engaging in developing technology."~~

SECTION 4. G.S. 105-163.013(c) reads as rewritten:

"(c) Qualified Grantee Businesses. – In order to qualify as a qualified grantee business under this Part, a business must be registered with the Securities Division of the Department of the Secretary of State. To register, the business must file with the Secretary of State an application and any supporting documents the Secretary of State may require from time to time to determine that the business meets the requirements for registration as a qualified grantee business. ~~A business meets the requirements for registration as a qualified grantee business if it has received during the preceding three years a grant or other funding from the North Carolina Technological Development Authority, the North Carolina Technological Development Authority, Inc., North Carolina First Flight, Inc., the North Carolina Biotechnology Center, the Microelectronics Center of North Carolina, the Kenan Institute for Engineering, Technology and Science, or the Federal Small Business Innovation Research Program.~~ The requirements for registration as a qualified grantee business are set out in G.S. 105-163.010(9).

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

To remain qualified as a qualified grantee business, the business must renew its registration annually as prescribed by rule by filing an application for renewal in which the business certifies the facts listed in this subsection."

SECTION 5. Part 5 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-163.015. Sunset.

This Part is repealed effective for investments made on or after January 1, 2004."

SECTION 6.(a) Section 4 of Chapter 977 of the 1991 Session Laws, as amended by Section 3 of Chapter 495 of the 1995 Session Laws, by Section 29.1 of S.L. 1997-443, and by Section 1 of S.L. 2001-517, reads as rewritten:

"Sec. 4. This act is effective for taxable years beginning on or after March 1, 1992, 1992, and expires for taxable years beginning on or after January 1, 2003."

SECTION 6.(b) Section 4 of Chapter 681 of the 1993 Session Laws, as amended by Section 17 of Chapter 17 of the 1995 Session Laws, by Section 4 of Chapter 495 of the 1995 Session Laws, by Section 29.1 of S.L. 1997-443, and by Section 2 of S.L. 1997-443 reads as rewritten:

"Sec. 4. This act is effective for taxable years beginning on or after January 1, 1994, 1994, and expires for taxable years beginning on or after January 1, 2003."

SECTION 6.(c) G.S. 105-130.41 is amended by adding a new subsection to read:

"(d) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2004."

SECTION 6.(d) G.S. 105-151.22 is amended by adding a new subsection to read:

"(d) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2004."

SECTION 7.(a) G.S. 143B-454(a)(11) reads as rewritten:

"(11) Have power to adopt, alter or repeal its own bylaws, rules and regulations governing the manner in which its business may be transacted and in which the power granted to it may be enjoyed, and may provide for the appointment of such committees, and the functions thereof, as the Authority may deem necessary or expedient in facilitating its business; business. The Authority may establish fees for its services. In establishing these fees, the Authority shall consider the cost of providing service, revenue requirements, the cost of similar services at other seaports in the South Atlantic region, and any other factors it considers relevant. The Authority shall report the establishment or increase of any fee to the Joint Legislative Commission on Governmental Operations no later than 30 business days after it establishes or increases the fee."

SECTION 7.(b) G.S. 150B-1(d) is amended by adding a subdivision to read:

"(11) The North Carolina State Ports Authority with respect to fees established pursuant to G.S. 143B-454(a)(11)."

SECTION 7.(c) G.S. 12-3.1 is amended by adding a new subsection to read:

"(d) In lieu of the requirements of subdivision (a)(2) of this section, the North Carolina State Ports Authority shall report the establishment or increase of any fee to the Joint Legislative Commission on Governmental Operations as provided in G.S. 143B-454(a)(11)."

SECTION 8. Sections 3 and 4 of this act become effective January 1, 2003. Notwithstanding the amendments to G.S. 105-163.010 and G.S. 105-163.013 in Sections 3 and 4 of this act, a business to which a grant or other funding was committed before January 1, 2003, by the North Carolina Technological Development Authority, the North Carolina Technological Development Authority, Inc., North Carolina First Flight, Inc., the North Carolina Biotechnology Center, the Microelectronics Center of North Carolina, the Kenan Institute for Engineering, Technology and Science, or the Federal Small Business Innovation Research Program may still qualify as a qualified grantee business under the provisions of G.S. 105-163.010 and G.S. 105-163.013 as they existed before the enactment of this act. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of August, 2002.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 2:53 p.m. this 29th day of August, 2002