GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H **1**

HOUSE BILL 920

Short Title:	Omnibus Economic Development Improvements.	(Public)
Sponsors:	Representatives Saine, Hamilton, R. Moore, and Jeter (Primary Sponsors). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Finance, if favorable, Appropriations.	

April 20, 2015

A BILL TO BE ENTITLED

AN ACT TO RESTORE VARIOUS TAX CREDITS AND INCENTIVES FOR ECONOMIC DEVELOPMENT.

The General Assembly of North Carolina enacts:

PART I. SITE INFRASTRUCTURE DEVELOPMENT FUNDING

SECTION 1.(a) Of the funds appropriated to the Department of Commerce for the 2014-2015 fiscal year, twenty million dollars ($20,000,000) shall be transferred to the Site Infrastructure Development Fund for uses consistent with G.S. 143B-437.02. The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Commerce, shall transfer the unencumbered cash balance of the Job Catalyst Fund (Budget Code 14600-1912) to the Site Infrastructure Development Fund (Budget Code 24600-2583).

SECTION 1.(b) This Part is effective when it becomes law.

PART II. NEW MARKETS TAX CREDIT

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

"Article 3L.

"North Carolina New Markets Jobs Act of 2015.

"**§ 105-129.100. Short title.**

The provisions of this Article shall be known and may be cited as the "North Carolina New Markets Jobs Act of 2015."

"**§ 105-129.101. Definitions.**

The following definitions apply in this Article:

(1) Affiliate. – An entity that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the entity specified.

(2) Applicable percentage. – Zero percent (0%) for the first two reduction allowance dates, twelve percent (12%) for the next three reduction allowance dates, and eleven percent (11%) for the following two reduction allowance dates.

(3) Below the line reduction of tax or "reduction." – A subtraction from the total amount of State premium tax liability made after all additions and deductions have been made to the gross premium amount and after the

appropriate rates of tax have been applied; for the purposes of constitutional, statutory, and common law interpretation and enforcement, the reduction shall be afforded the same property and contractual protections as a credit.

(4) Department. – The Department of Commerce.

(5) Long-term debt security. – Any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least seven years from the date of its issuance, with no acceleration of repayment, amortization, or prepayment features prior to its original maturity date. The qualified community development entity that issues the debt instrument may not make cash interest payments on the debt instrument during the period beginning on the date of issuance and ending on the final reduction allowance date in an amount that exceeds the cumulative operating income, as defined by regulations adopted under section 45D of the Internal Revenue Code of 1986, as amended, of the qualified community development entity for that period prior to giving effect to the interest expense of such long-term debt security. The foregoing shall in no way limit the holder's ability to accelerate payments on the debt instrument in situations where the qualified community development entity has defaulted on covenants designed to ensure compliance with this section or section 45D of the Internal Revenue Code of 1986, as amended.

(6) Purchase price. – The amount paid to the qualified community development entity upon the issuance of a qualified equity investment.

(7) Qualified active low-income community business. – The meaning given such term in section 45D of the Internal Revenue Code of 1986, as amended, and 26 C.F.R. § 1.45D-1 but limited to those businesses meeting the SBA size eligibility standards established in 13 C.F.R. § 121.101-201 at the time the qualified low-income community investment is made. A business shall be considered a qualified active low-income community business for the duration of the qualified community development entity's investment in or loan to the business if the entity reasonably expects, at the time it makes the investment or loan, that the business will continue to satisfy the requirements for being a qualified active low-income community business, other than the SBA size standards, throughout the entire period of the investment or loan. The term excludes any business that derives or projects to derive fifteen percent (15%) or more of its annual revenue from the rental or sale of real estate. This exclusion does not apply to a business that is controlled by or under common control with another business if the second business (i) does not derive or project to derive fifteen percent (15%) or more of its annual revenue from the rental or sale of real estate and (ii) is the primary tenant of the real estate leased from the first business.

(8) Qualified community development entity. – The meaning given such term in section 45D of the Internal Revenue Code of 1986, as amended; provided that such entity has entered into, for the current year or any prior year, an allocation agreement with the Community Development Financial Institutions Fund of the U.S. Treasury Department with respect to credits authorized by section 45D of the Internal Revenue Code of 1986, as amended, which includes the State of North Carolina within the service area set forth in the allocation agreement. The term shall include qualified community development entities that are controlled by or are under common control with the qualified community development entity.

(9) Qualified equity investment. – Any equity investment in or long-term debt security issued by a qualified community development entity that meets each of the following requirements:

a. Is acquired after the effective date of this act at its original issuance solely in exchange for cash.

b. Has at least eighty-five percent (85%) of its cash purchase price used by the qualified community development entity to make qualified low-income community investments in qualified active low-income community businesses located in this State by the first anniversary of the initial reduction allowance date.

c. Is designated by the qualified community development entity as a qualified equity investment under this subdivision and is certified by the Department as not exceeding the limitation contained in G.S. 105-129.102(d)(5). This term shall include any qualified equity investment that does not meet the provisions of sub-subdivision a. of this subdivision if such investment was a qualified equity investment in the hands of a prior holder.

(10) Qualified low-income community investment. – Any capital or equity investment in or loan to any qualified active low-income community business. With respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments made in such business, on a collective basis with all of the businesses' affiliates, with the proceeds of qualified equity investments certified under G.S. 105-129.102(d) that shall count toward satisfaction of the requirements of sub-subdivision b. of subdivision (9) of this section and sub-subdivision c. of G.S. 105-129.102(e)(1) shall be seven million dollars ($7,000,000), exclusive of qualified low-income community investments made with repaid or redeemed qualified low-income community investments or interest or profits realized thereon.

(11) Reduction allowance date. – With respect to any qualified equity investment, the date on which the investment is initially made and each of the six anniversary dates thereafter.

(12) Rural census tracts. – Any census tract in which a qualified active low-income community business is located that also is located in a county designated as Tier 1 or Tier 2 by the North Carolina Department of Commerce as of or after 2015.

(13) Secretary. – The Secretary of Commerce.

(14) State premium tax liability. – Any liability incurred by any entity under the gross premiums tax or the retaliatory premium tax levied in Article 8B of this Chapter, or, if the tax liability under the gross premiums tax or the retaliatory premium tax levied in Article 8B of this Chapter is eliminated or reduced, the term shall also mean any tax liability imposed on an insurance company or other person that had premium tax liability under the laws of this State.

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

(a) Reduction Established. – An entity that makes a qualified equity investment earns a vested contractual right to a below-the-line reduction of tax applicable to the entity's State premium tax liability on future premium tax reports filed under Article 8B of Chapter 105 of the General Statutes. On or after each reduction allowance date of the qualified equity investment, the taxpayer or subsequent holder of the qualified equity investment may utilize a portion of the tax reduction during the taxable year, including the reduction allowance date.

The tax reduction amount is equal to the applicable percentage for the reduction allowance date multiplied by the purchase price paid to the qualified community development entity. The amount of the tax reduction claimed in that taxable year by a taxpayer shall not exceed the amount of such taxpayer's State tax liability for the tax year for which the tax reduction is claimed. Any amount of tax reduction that the taxpayer is prohibited from claiming in a taxable year as a result of this section may be carried forward for use in any subsequent taxable year.

(b) Transferability. – A tax reduction claimed pursuant to this Article is not refundable or saleable on the open market. Tax reductions earned by or allocated to a partnership, limited liability company, or S Corporation may be allocated to the partners, members, or shareholders of such entity for their use in accordance with the provisions of any agreement among such partners, members, or shareholders. These allocations are not considered a sale for purposes of this section. The Department shall issue a certificate to each entity allocated a tax reduction under this Article.

(c) Certification of Qualified Equity Investments. – A qualified community development entity that seeks to have an equity investment or long-term debt security designated as a qualified equity investment and eligible for tax reductions under this section shall apply to the Department, which shall begin accepting applications on July 1, 2015. The qualified community development entity must submit an application on a form that the Department provides that includes each of the following:

(1) Evidence of the entity's certification as a qualified community development entity, including evidence of the service area of the entity that includes this State.
(2) A copy of an allocation agreement executed by the entity or its controlling entity and the Community Development Financial Institutions Fund.
(3) A certificate executed by an executive officer of the entity attesting that the allocation agreement remains in effect and has not been revoked or cancelled by the Community Development Financial Institutions Fund.
(4) A description of the proposed amount, structure, and purchaser of the qualified equity investment.
(5) If known, identifying information for any taxpayer eligible to utilize tax reductions earned as a result of the issuance of the qualified equity investment.
(6) Examples of the types of qualified active low-income businesses in which the applicant, its controlling entity, or affiliates of its controlling entity have invested under the federal New Markets Tax Credit Program. Applications are not required to identify qualified active low-income community businesses in which they will invest when submitting an application.
(7) A nonrefundable application fee of five thousand dollars ($5,000).
(8) The refundable performance deposit required by G.S. 105-129.104.
(9) Whether the application is for the Rural Reserve under G.S. 105-129.109.

(d) (1) Within 30 days after receipt of a completed application containing the information set forth in subsection (c) of this section, including the payment of the application fee and the performance deposit, the Department shall grant or deny the application in full or in part. If the Department denies any part of the application, it shall inform the qualified community development entity of the grounds for the denial. If the qualified community development entity provides any additional information required by the Department or otherwise completes its application within 15 days of the notice of denial, the application shall be considered completed as of the original date of submission. If the qualified community development entity fails to provide the information or complete its application within the 15-day period, the application is denied and must be resubmitted in full with a new submission date.

(2) If the application is deemed complete, the Department shall certify the proposed equity investment or long-term debt security as a qualified equity investment that is eligible for a reduction under this section, subject to the limitations contained in subdivision (5) of this subsection; provided that the Department shall not certify qualified equity investments for any applicant, on a combined basis with all of its affiliates, in excess of sixty million dollars ($60,000,000) unless such applicant has (i) already had qualified equity investments certified under this section, (ii) satisfied the requirements of subdivision (6) of this subsection with respect to such qualified equity investments, and (iii) filed a new application after satisfying the requirements of (i) and (ii) of this subdivision. The Department shall provide written notice of the certification to the qualified community development entity. The notice shall include the names of those taxpayers who are eligible to utilize the reductions and their respective reduction amounts. If the names of the taxpayers who are eligible to utilize the reductions change due to a transfer of a qualified equity investment or a change in an allocation pursuant to subsection (b) of this section, the qualified community development entity shall notify the Department of such change.

(3) Once the Department has certified a qualified equity investment, the qualified community development entity may suballocate all or any portion of the amount of the certified qualified equity investment to one or more qualified community development entities with the same controlling entity as the applicant qualified community development entity, provided that the applicant qualified community development entity files a notice of such suballocation with the Department and the recipient of the suballocation meets all the requirements of a qualified community development entity under this section. The notice of suballocation shall include the information required in the application for all suballocatees.

(4) The Department shall certify qualified equity investments in the order applications are received by the Department. Applications received on the same day shall be deemed to have been received simultaneously. For applications received on the same day and deemed complete, the Department shall certify, consistent with remaining tax reduction capacity, qualified equity investments in proportionate percentages based upon the ratio of the amount of qualified equity investment requested in an application to the total amount of qualified equity investments requested in all applications received on the same day.

(5) The Department shall certify two hundred eight million three hundred thirty-three thousand three hundred thirty-three dollars ($208,333,333) in qualified equity investment authority pursuant to two allocations, one for the Rural Reserve and one for the Statewide Reserve, each as described in G.S. 105-129.109(a). If a pending request cannot be fully certified due to this limit, the Department shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial certification.

(6) Within 45 days after receiving notice of certification, the qualified community development entity or any transferee under this section shall issue the qualified equity investment and receive cash in the amount of the certified amount. The qualified community development entity or transferee

must provide the Department with evidence of the receipt of the cash investment within 50 days of the applicant receiving notice of certification. If the qualified community development entity or transferee does not receive the cash investment and issue the qualified equity investment within 45 days following receipt of the certification notice, the certification shall lapse and the entity may not issue the qualified equity investment without reapplying to the Department for certification. A certification that lapses reverts back to the Department and shall be reissued pro rata to other applicants whose qualified equity investment allocations were reduced under this section and thereafter in accordance with the application process.

(e) Disallowance. –

(1) The Department may determine that reductions previously claimed or to be claimed by a taxpayer under this Article should be disallowed. Notice that a reduction shall be disallowed shall be transmitted in writing to the taxpayer and the Department of Revenue. Disallowance may be determined if any of the following occurs:

a. Any amount of the federal tax credit available with respect to a qualified equity investment that is eligible for a tax reduction under this section is recaptured under section 45D of the Internal Revenue Code of 1986, as amended. In such case, the Department's disallowance shall be proportionate to the federal recapture with respect to such qualified equity investment.

b. The qualified community development entity redeems or makes principal repayment with respect to a qualified equity investment prior to the seventh anniversary of the issuance of such qualified equity investment. In such case, the Department's disallowance shall be proportionate to the amount of the redemption or repayment with respect to such qualified equity investment.

c. The qualified community development entity fails to (i) invest at least eighty-five percent (85%) of the purchase price of the qualified equity investment in qualified low-income investments in the State within 12 months of the issuance of the qualified equity investment and (ii) maintain such level of investment in qualified low-income community investments in the State until the last reduction allowance date for the qualified equity investment. For qualified equity investments made under the Rural Reserve, all qualified low-income community investments required to meet the requirements of this subsection must be made in qualified active low-income community businesses located in rural census tracts within this State.

d. Any distribution or debt payment in violation of G.S. 105-129.107(a).

e. Failure to comply with G.S. 105-129.108, 105-129.109, or 105-129.110.

(2) For purposes of this section, an investment shall be considered held by a qualified community development entity even if the investment has been sold or repaid if the qualified community development entity reinvests an amount equal to the capital returned to or recovered by the qualified community development entity from the original investment, exclusive of any profits realized, in another qualified low-income community investment within 12 months of the receipt of such capital. Periodic amounts received as repayment of principal on a loan that is a qualified low-income community

investment shall be treated as continuously invested in a qualified low-income community investment if the amounts are reinvested in one or more qualified low-income community investments by the end of the following calendar year. A qualified community development entity shall not be required to reinvest capital returned from qualified low-income community investments after the sixth anniversary of the issuance of the qualified equity investment, and the qualified low-income community investment shall be considered held by the qualified community development entity through the seventh anniversary of the issuance of the qualified equity investment.

(3) A recaptured reduction and the related qualified equity investment authority under the Rural Reserve or the Statewide Reserve, as applicable, reverts back to the Department and shall be reissued pro rata to other applicants whose qualified equity investment allocations were reduced under this section and thereafter in accordance with the application process.

"**§ 105-129.103. Notice of noncompliance.**

Enforcement of the disallowance under this Article shall not occur until the qualified community development entity shall have been given notice of noncompliance and afforded six months from the date of such notice to cure the noncompliance.

"**§ 105-129.104. Refundable performance deposit.**

(a) For each application submitted, a qualified community development entity that seeks to have an equity investment or long-term debt security designated as a qualified equity investment and eligible for a reduction under this Article shall make a performance deposit in the amount of the greater of one-quarter of one percent (1/4 of 1%) of the amount of the equity investment or long-term debt security requested to be designated as a qualified equity investment or five hundred thousand dollars ($500,000) to the Department for deposit in the New Markets performance guarantee account, which is hereby established. The entity shall forfeit the amount deposited if (i) the qualified community development entity together with any qualified community development entities to which it has suballocated qualified equity investment authority pursuant to G.S. 105-129.102(d), if any, fail to issue the total amount of qualified equity investments certified by the Department and receive cash in the total amount certified under G.S. 105-129.102 within 45 days after receiving notice of certification, or (ii) the qualified community development entity or any qualified community development entity that issues suballocated qualified equity investment authority pursuant to G.S. 105-129.102(d) certified under this Article fails to invest at least eighty-five percent (85%) of the purchase price of any qualified equity investment issued in qualified low-income community investments within 12 months of the issuance of the qualified equity investment; provided that forfeiture for the failure under clauses (i) and (ii) of this subsection is not subject to the cure period established in G.S. 105-129.103.

(b) The performance deposit required under this section shall be paid to the Department and held in the New Markets performance guarantee account without any portion being repaid until such time as compliance with clause (ii) of subsection (a) of this section has been established. The qualified community development entity may request a refund of the performance deposit from the Department no sooner than 30 days after having met the requirements of clause (ii) of subsection (a) of this section. The State Treasurer shall have 30 days to comply with the request or give notice of noncompliance.

"**§ 105-129.105. Letter rulings.**

(a) The Secretary shall issue letter rulings regarding the tax reduction program authorized under this Article, subject to the terms and conditions set forth in this section. For the purposes of this Article, the term "letter ruling" means a written interpretation of law to a specific set of facts provided by the applicant requesting a letter ruling.

(b) The Secretary shall respond to a request for a letter ruling within 60 days of receipt of such request. The applicant may provide a draft letter ruling for the Secretary's consideration. The applicant may withdraw the request for a letter ruling, in writing, prior to the issuance of the letter ruling. The Secretary may refuse to issue a letter ruling for good cause but must list the specific reasons for refusing to issue the letter ruling. Good cause includes any of the following:

(1) The applicant requests the director to determine whether a statute is constitutional or a regulation is lawful.

(2) The request involves a hypothetical situation or alternative plan.

(3) The facts or issues presented in the request are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue a letter ruling.

(4) The issue is currently being considered in a rule-making procedure, contested case, or other agency or judicial proceeding that may definitely resolve the issue.

(c) Letter rulings shall bind the Secretary and the Secretary's agents and their successors and all other State agencies until such time as the entity or its shareholders, members, or partners, as applicable, claim all of the reductions on a North Carolina tax return or report, subject to the terms and conditions set forth in properly published regulations. The letter ruling shall apply only to the applicant.

(d) In rendering letter rulings and making other determinations under this Article, to the extent applicable, the Department and the Department of Revenue shall look for guidance to section 45D of the Internal Revenue Code of 1986, as amended, and the rules and regulations issued thereunder.

"**§ 105-129.106. Retaliatory tax.**

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

"**§ 105-129.107. Decertification.**

(a) Once certified under this Article, a qualified equity investment may not be decertified unless all of the requirements of this section have been met. Until all qualified equity investments issued by a qualified community development entity or any transferee qualified community development entity under G.S. 105-129.102(d) are decertified under this section, the qualified community development entity or any transferee qualified community development entity under G.S. 105-129.102(d) shall not be entitled to distribute to its equity holders or make cash payments on long-term debt securities that have been designated as qualified equity investments in an amount that exceeds the sum of (i) the cumulative operating income, as defined by regulations adopted under section 45D of the Internal Revenue Code of 1986, as amended, earned by the qualified community development entity since issuance of the qualified equity investment, prior to giving effect to any interest expense of long-term debt securities designated as qualified equity investments and (ii) fifty percent (50%) of the purchase price of the qualified equity investments issued by the qualified community development entity.

(b) To be decertified, all of the following conditions must be met:

(1) The qualified equity investment is beyond its seventh reduction allowance date.

(2) The qualified equity investment was in compliance with the requirements of this Article through its seventh reduction allowance date, including any cures.

(3) The qualified equity investment has its proceeds invested in qualified active low-income community investments such that the total qualified active low-income community investments made, cumulatively including reinvestments, exceeds one hundred fifty percent (150%) of its qualified equity investment. For purposes of making this calculation, qualified low-income community investments to any one qualified active low-income community business, on a collective basis with affiliates, in excess of seven million dollars ($7,000,000) are not included unless the investments are made with capital returned or repaid from qualified low-income community investments made by the qualified community development entity in other qualified active low-income community businesses or interest earned on or profits realized from any qualified low-income community investments.

(c) A qualified community development entity that seeks to have a qualified equity investment decertified under this section shall send notice to the Department of its request for decertification along with evidence supporting the request. The provisions of subdivision (2) of subsection (b) of this section are met if no disallowance action has been commenced by the Department as of the seventh reduction allowance date. A request under this section shall not be unreasonably denied and shall be responded to within 30 days of receiving the request. If the request is denied for any reason, the burden of proof shall be on the Department in any administrative or legal proceeding that follows.

"**§ 105-129.108. Limitation on fees.**

No qualified community development entity shall be entitled to pay any affiliate of such qualified community development entity any fees in connection with any activity under this Article prior to decertification under G.S. 105-129.107 of all qualified equity investments issued by the qualified community development entity. The foregoing shall not prohibit a qualified community development entity from allocating or distributing income earned by it to the affiliates or paying reasonable interest on amounts lent to the qualified community development entity by such affiliates.

"**§ 105-129.109. Rural Investment Reserve.**

(a) Of the maximum total two hundred eight million three hundred thirty-three thousand three hundred thirty-three dollars ($208,333,333) of qualified equity investments eligible for certification by the Department under G.S. 105-129.102, one hundred fifty-six million two hundred fifty thousand dollars ($156,250,000) of the total shall be reserved for applications submitted for a portion of the New Markets Jobs Act of 2015 hereby designated the "Rural Reserve." The fifty-two million eighty-three thousand three hundred thirty-three dollars ($52,083,333) not in the Rural Reserve shall be designated the "Statewide Reserve."

(b) A qualified community development entity may apply for both the Rural Reserve and the Statewide Reserve, provided it does so in separate applications.

(c) All qualified low-income community investments made under the Rural Reserve of qualified equity investment authority shall only be made in qualified active low-income community businesses located in rural census tracts in the State, including those necessary to meet the standards for decertification contained in G.S. 105-129.107.

(d) Qualified low-income community investments made under the Statewide Reserve of qualified equity investment authority shall not be geographically restricted so long as the qualified active low-income community business is located in the State.

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

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

"**§ 105-129.111. Reporting.**

(a) A qualified community development entity that issues qualified equity investments shall submit a report to the Department within the first five business days after the first anniversary of the initial reduction allowance that provides documentation as to the investment of eighty-five percent (85%) of the purchase price in qualified low-income community investments in qualified active low-income community businesses located in the State. The report shall include the following:

(1) A bank statement of the qualified community development entity evidencing each qualified low-income community investment.

(2) Evidence that the business was a qualified active low-income community business at the time of the qualified low-income community investment.

(3) Evidence that the qualified active low-income community business was located in a rural census tract at the time of the qualified low-income community investment, if applicable under the Rural Reserve.

(b) After the initial report under subsection (a) of this section, a qualified community development entity shall submit an annual report to the Department on or before April 1 of the calendar year during the compliance period. An annual report is not due before the first anniversary of the initial reduction allowance date. The annual report shall include the following:

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

(2) The average annual salary of positions described in subdivision (1) of this subsection.

(3) Certification from the qualified community development entity that the grounds for disallowance under G.S. 105-129.102(e) have not occurred."

SECTION 2.(b) Part II of this act becomes effective July 1, 2015, and applies to qualified equity investments made on or after that date.

PART III. HISTORIC REHABILITATION TAX CREDIT

SECTION 3.(a) Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 3L.

"Historic Rehabilitation Tax Credits Investment Program.

"**§ 105-129.100. Credit for rehabilitating income-producing historic structure.**

(a) Credit. – A taxpayer who is allowed a federal income tax credit under section 47 of the Code for making qualified rehabilitation expenditures for a certified historic structure located in this State is allowed a credit equal to the sum of the following:

(1) Base amount. – The percentage of qualified rehabilitation expenditures at the levels provided in the table below:

Expenses	Over/Up To	Rate
0	$10 million	15.00%

$10 million	$20 million	10.00%

(2) Development tier bonus. – An amount equal to five percent (5%) of qualified rehabilitation expenditures not exceeding twenty million dollars ($20,000,000) if the certified historic structure is located in a development tier one or two area.

(3) Targeted investment bonus. – An amount equal to five percent (5%) of qualified rehabilitation expenditures not exceeding twenty million dollars ($20,000,000) if the certified historic structure is located on an eligible targeted investment site.

(b) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this section may allocate the credit among any of its owners in its discretion as long as an owner's adjusted basis in the pass-through entity, as determined under the Code, at the end of the taxable year in which the certified historic structure is placed in service, is at least forty percent (40%) of the amount of credit allocated to that owner. Owners to whom a credit is allocated are allowed the credit as if they had qualified for the credit directly. A pass-through entity and its owners must include with their tax returns for every taxable year in which an allocated credit is claimed a statement of the allocation made by the pass-through entity and the allocation that would have been required under G.S. 105-131.8 or G.S. 105-269.15.

(c) Definitions. – The following definitions apply in this section:

(1) Certified historic structure. – Defined in section 47 of the Code.

(2) Development tier area. – Defined in G.S. 143B-437.08.

(3) Eligibility certification. – A certification obtained from the State Historic Preservation Officer that the site comprises an eligible targeted investment site.

(4) Eligible targeted investment site. – A site located in this State that satisfies all of the following conditions:

a. It was used as a manufacturing facility or for purposes ancillary to manufacturing, as a warehouse for selling agricultural products, or as a public or private utility.

b. It is a certified historic structure.

c. It has been at least sixty-five percent (65%) vacant for a period of at least two years immediately preceding the date the eligibility certification is made.

(5) Pass-through entity. – Defined in G.S. 105-228.90.

(6) Qualified rehabilitation expenditures. – Defined in section 47 of the Code.

(7) State Historic Preservation Officer. – The Deputy Secretary of the Office of Archives and History of the North Carolina Department of Cultural Resources, or the Deputy Secretary's designee, who acts to administer the historic preservation programs within the State.

(8) Targeted investment. – Qualified rehabilitation expenditures on a certified historic structure that is located on an eligible targeted investment site.

(d) Limitations. – The amount of credit allowed under this section with respect to qualified rehabilitation expenditures for an income-producing certified historic structure may not exceed four million five hundred thousand dollars ($4,500,000).

"**§ 105-129.101. Credit for rehabilitating non-income-producing historic structure.**

(a) Credit. – A taxpayer who is not allowed a federal income tax credit under section 47 of the Code and who has rehabilitation expenses of at least ten thousand dollars ($10,000) for a State-certified historic structure located in this State is allowed a credit equal to fifteen percent (15%) of the rehabilitation expenses.

(b) Limitations. – The amount of credit allowed under this section with respect to rehabilitation expenses for a non-income-producing certified historic structure may not exceed twenty-two thousand five hundred dollars ($22,500) per discrete property parcel. In the event that the taxpayer is the transferee of a State-certified historic structure for which rehabilitation expenses were made, the taxpayer as transferee is allowed a credit under this section only if the transfer takes place before the structure is placed in service. In this event, no other taxpayer may claim such credit. A taxpayer is allowed to claim a credit under this section no more than once in any five-year period, carryovers notwithstanding.

(c) Definitions. – The following definitions apply in this section:

(1) Certified rehabilitation. – Repairs or alterations consistent with the Secretary of the Interior's Standards for Rehabilitation and certified as such by the State Historic Preservation Officer.

(2) Discrete property parcel. – A lot or tract described by metes and bounds, a deed or plat of which has been recorded in the deed records of the county in which the property is located, and on which a State-certified historic structure is located, or a single condominium unit in a State-certified historic structure.

(3) Placed in service. – The later of the date on which the rehabilitation is completed or the date on which the property is used for its intended purpose.

(4) Rehabilitation expenses. – Expenses incurred in the certified rehabilitation of a certified historic structure and added to the property's basis. The expenses must be incurred within any 24-month period per discrete property parcel. The term does not include the cost of acquiring the property, the cost attributable to the enlargement of an existing building, the cost of site work expenditures, or the cost of personal property.

(5) State-certified historic structure. – A structure that is individually listed in the National Register of Historic Places or is certified by the State Historic Preservation Officer as contributing to the historic significance of a National Register Historic District or a locally designated historic district certified by the United States Department of the Interior.

(6) State Historic Preservation Officer. – Defined in G.S. 105-129.100(c)(7).

"**§ 105-129.102. Rules; fees.**

(a) Rules. – The North Carolina Historical Commission, in consultation with the State Historic Preservation Officer, may adopt rules needed to administer any certification process required by this Article.

(b) Fees. – The North Carolina Historical Commission, in consultation with the State Historic Preservation Officer, may adopt a schedule of fees for providing any certifications required by this Article, or Article 3D or 3H as they provided as of December 31, 2014. In establishing the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department of Cultural Resources. An application fee may not exceed one percent (1%) of the completed qualifying rehabilitation expenditures. The proceeds of the fees are receipts of the Department of Cultural Resources and must be used for performing its duties under this Article.

"**§ 105-129.103. Tax credited; credit limitations.**

(a) Tax Credited. – The credits provided in this Article are allowed against the franchise tax imposed in Article 3 of this Chapter, the income taxes levied in Article 4 of this Chapter, or the gross premiums tax imposed in Article 8B of this Chapter. The taxpayer may take a credit allowed by this Article against only one of the taxes against which it is allowed. The taxpayer must elect the tax against which a credit will be claimed when filing the return on which it is claimed, and this election is binding. Any carryforwards of a credit must be claimed against the same tax.

(b) Return. – A taxpayer may claim a credit allowed by this Article on a return filed for the taxable year in which the certified historic structure was placed into service. When an income-producing certified historic structure as defined in G.S. 105-129.100 is placed into service in two or more phases in different years, the amount of credit that may be claimed in a year is the amount based on the qualified rehabilitation expenditures associated with the phase placed into service during that year.

(c) Cap. – A credit allowed under this Article may not exceed the amount of the tax against which it is claimed for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding nine years.

(d) Forfeiture for Disposition. – A taxpayer who is required under section 50 of the Code to recapture all or part of the federal credit for rehabilitating an income-producing historic structure located in this State forfeits the corresponding part of the State credit allowed under G.S. 105-129.100 with respect to that historic structure. If the credit was allocated among the owners of a pass-through entity, the forfeiture applies to the owners in the same proportion that the credit was allocated.

(e) Forfeiture for Change in Ownership. – If an owner of a pass-through entity that has qualified for the credit allowed under G.S. 105-129.100 disposes of all or a portion of the owner's interest in the pass-through entity within five years from the date the rehabilitated historic structure is placed in service and the owner's interest in the pass-through entity is reduced to less than two-thirds of the owner's interest in the pass-through entity at the time the historic structure was placed in service, the owner forfeits a portion of the credit. The amount forfeited is determined by multiplying the amount of credit by the percentage reduction in ownership and then multiplying that product by the forfeiture percentage. The forfeiture percentage equals the recapture percentage found in the table in section 50(a)(1)(B) of the Code.

(f) Exceptions to Forfeiture. – Forfeiture as provided in subsection (e) of this section is not required if the change in ownership is the result of any of the following:

(1) The death of the owner.

(2) A merger, consolidation, or similar transaction requiring approval by the shareholders, partners, or members of the taxpayer under applicable State law, to the extent the taxpayer does not receive cash or tangible property in the merger, consolidation, or other similar transaction.

(g) Liability From Forfeiture. – A taxpayer or an owner of a pass-through entity that forfeits a credit under this section is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.21, computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited. A taxpayer or owner of a pass-through entity that fails to pay the taxes and interest by the due date is subject to the penalties provided in G.S. 105-236.

(h) Substantiation. – To claim a credit allowed by this Article, the taxpayer must provide any information required by the Secretary of Revenue, including a copy of the certification obtained from the State Historic Preservation Office verifying that the historic structure has been rehabilitated in accordance with the requirements set out in this Article, and a copy of the eligibility certification if the historic structure is located in an eligible targeted investment site and the target investment bonus is claimed. Every taxpayer claiming a credit under this Article must maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for the credit and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

(i) No Double Credit. – A taxpayer that claims a credit under this Article may not also claim a credit under Article 3D or Article 3H of this Chapter with respect to the same activity.

"**§ 105-129.104. Report; tracking.**

(a) The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer:

(1) The number of taxpayers that took the credits allowed in this Article.

(2) The amount of rehabilitation expenses and qualified rehabilitation expenditures with respect to which credits were taken.

(3) The total cost to the General Fund of the credits taken.

(b) The Department shall include in the economic incentives report required by G.S. 105-256 the following information:

(1) The total amount of tax credits claimed and the total amount of tax credits taken against current taxes, by type of tax, during the relevant tax year.

(2) The total amount of tax credits carried forward, by type of tax.

"**§ 105-129.105. Sunset.**

This Article expires for qualified rehabilitation expenditures and rehabilitation expenses incurred on or after January 1, 2021."

SECTION 3.(b) G.S. 105-129.75 reads as rewritten:

"**§ 105-129.75. Sunset.**

This Article expires January 1, 2015, for rehabilitation projects for which an application for an eligibility certification is submitted on or after that date. Eligibility certifications under this Article expire January 1, 2023."

SECTION 3.(c) Subsection (a) of this section becomes effective January 1, 2015, and applies to qualified rehabilitation expenditures and rehabilitation expenses incurred on or after that date. The remainder of the Part is effective when it becomes law.

PART IV. FILM AND ENTERTAINMENT GRANT FUND MODIFICATIONS

SECTION 4.(a) G.S. 143B-437.02A reads as rewritten:

"**§ 143B-437.02A. The Film and Entertainment Grant Fund.**

(a) Creation and Purpose of Fund. – There is created in the Department of Commerce a special, nonreverting account to be known as the Film and Entertainment Grant Fund to provide funds to encourage the production of motion pictures, television shows, and commercials and to develop the filmmaking industry within the State. The Department of Commerce shall adopt guidelines providing for the administration of the program. Those guidelines may provide for the Secretary to award the grant proceeds over a period of time, not to exceed three years. Those guidelines shall include the following provisions, which shall apply to each grant from the account:

(1) The funds are reserved for a production on which the production company has qualifying expenses of at least the following:

~~a.~~ ~~For a feature-length film, five million dollars ($5,000,000).~~For academic-linked material, one hundred thousand dollars ($100,000).

~~b.~~ ~~For a video or television series, two hundred fifty thousand dollars ($250,000) per episode.~~For any other production, two hundred fifty thousand dollars ($250,000).

~~c.~~ ~~For a commercial for theatrical or television viewing, two hundred fifty thousand dollars ($250,000).~~

(2) The funds are not used to provide a grant in excess of any of the following:

a. An amount more than ~~twenty-five percent (25%)~~ a percentage of the qualifying expenses for the production. The percentage is equal to fifteen percent (15%) plus any percentages given for return-on-investment incentive bonuses provided in subdivision (5) of this subsection.

b. An amount more than ~~five~~ twenty million dollars ~~($5,000,000)~~($20,000,000) for a feature-length film.~~film, more than five million dollars ($5,000,000) for a television or video series, or two hundred fifty thousand dollars ($250,000) for a commercial for theatrical or television viewing.~~

(3) The funds are not used to provide a grant to more than one production company for a single production.

(4) The funds are not used to provide a grant for a production that meets one or more of the following:

a. It contains material that is "obscene," as defined in ~~G.S. 14-190.1, or that is "harmful to minors," as defined in G.S. 14-190.13.~~G.S. 14-190.1.

b. It has the primary purpose of political advertising, fundraising, or marketing, other than by commercial, a product, or service.

c. News programming, including weather, financial market, and current events reporting.

d. Live sporting event programming, including pre-event and post-event coverage and scripted sports entertainment. For purposes of this exception, a live sporting event is a scheduled sporting competition, game, or race that is originated solely by an amateur, collegiate, or professional organization, institution, or association for live or tape-delayed television or satellite broadcast. The term does not include commercial advertising, an episodic television series, a television pilot, a music video, a motion picture, or a documentary production in which sporting events are presented through archived historical footage or similar footage taken at least 30 days before it is used.

e. Radio productions.

f. It is a talk, game, or awards show or other gala event. For purposes of this exception, an awards show is television programming involving the filming of a ceremony in which individuals, groups, or organizations are given an award.

g. It fails to contain, in the end credits of the production, a statement that the production was "Filmed in North Carolina," a logo provided by the North Carolina Film Office, and an acknowledgement of the regional film office responsible for the geographic area in which the filming of the production occurred. Additionally, the production company will offer marketing opportunities to be evaluated by the North Carolina Film Office to ensure that they offer promotional value to the State.

(5) ~~Priority for the use of funds~~A return-on-investment incentive bonus shall be given to productions that are reasonably anticipated to maximize the benefit to the State, ~~in consideration of at least the following factors:~~as follows:

a. A two percent (2%) bonus if the ~~Percentage~~ percentage of employees that are permanent residents in the ~~State.~~State used in the production exceeds fifty percent (50%) of the total employees used in the production.

b. ~~The~~A two percent (2%) bonus if ~~extent to which~~ the production features identifiable attractions or State locales in a manner that the

Department, in its discretion, concludes is ~~would be~~ reasonably expected to induce visitation by nonresidents of the State to the attraction or locale.

c. ~~The~~ A two percent (2%) bonus if ~~extent to which~~ the production invests at least twenty thousand dollars ($20,000) in permanent improvements to open public spaces, commercial districts, traditional downtown areas, public landmarks, residential areas, or similar properties or areas.

d. ~~The~~ A two percent (2%) bonus if~~extent to which~~ at least fifteen percent (15%) of the production ~~will be~~is filmed in ~~an economically distressed county or area of the State.~~a development tier one or two area, urban progress zone, or agrarian growth zone, as defined in Article 10 of Chapter 143B of the General Statutes.

e. ~~The~~ A two percent (2%) bonus if the duration of production activities in the ~~State.~~State exceeds two years. For video and television series, production activities occur in the State if at least seventy-five percent (75%) of the episodes of a season are principally filmed in the State.

(b) Definitions. – The following definitions apply in this section:

(1) Academic-linked material. – Commercial material filmed and produced as part of an academic curriculum for a degree in filming or film production in this State.

(1a) Department. – The Department of Commerce.

~~(2) Employee. – A person who is employed for consideration for at least 35 hours a week and whose wages are subject to withholding under Article 4A of Chapter 105 of the General Statutes.~~

(3) Highly compensated individual. – An individual who directly or indirectly receives compensation in excess of one million dollars ($1,000,000) for personal services with respect to a single production. An individual receives compensation indirectly when a production company pays a personal service company or an employee leasing company that pays the individual.

(4) Loan-out company. – A personal service corporation that employs an individual who is hired by a film or digital media production company.

(5) Production. – Any of the following:

a. A motion picture intended for commercial distribution to a motion picture theater or directly to the consumer viewing market that has a running time of at least 75 minutes.

b. A video or television series or a commercial for theatrical or television ~~viewing.~~viewing, including access through cable television, broadcast television, digital video discs, and online sources. For video and television series, a production is ~~all of the episodes~~each episode of the series produced for a single season.

c. Academic-linked material.

(6) Production company. – Defined in G.S. 105-164.3.

(7) Qualifying expenses. – The sum of the amounts listed in this subdivision, substantiated pursuant to subsection (d) of this section, and spent in this State by a production company in connection with a production, less the amount paid in excess of one million dollars ($1,000,000) to a highly compensated individual:

a. Goods and services leased or purchased. For goods with a purchase price of twenty-five thousand dollars ($25,000) or more, the amount included in qualifying expenses is the purchase price less the fair market value of the good at the time the production is completed. Goods and services includes the costs of tangible and intangible property used for, and services performed primarily and customarily in, production, including preproduction and postproduction and other direct costs of producing the project in accordance with generally accepted entertainment industry practices. Goods and services exclude costs for development, marketing, and distribution; costs of financing for the production, of bonding related to the production, of production-related insurance coverage obtained on the production; and expenses for insurance coverage purchased from a related member.

b. Compensation and wages and payments on which withholding payments are remitted to the Department of Revenue under Article 4A of Chapter 105 of the General Statutes. Payments made to a loan-out company for services provided in North Carolina shall be subject to gross income tax withholding at the applicable rate under ~~the~~ Article 4 of Chapter 105 of the General Statutes.

c. Employee fringe contributions, including health, pension, and welfare contributions.

d. Per diems, stipends, and living allowances paid for work being performed in this State.

(8) Related member. – Defined in G.S. 105-130.7A.

(9) Secretary. – The Secretary of Commerce.

(c) Application. – A production company shall apply, under oath, to the Secretary for a grant on a form prescribed by the Secretary. The Secretary shall evaluate the applications to ensure the production's content is created for entertainment purposes. The application shall include all documentation and information the Secretary deems necessary to evaluate the grant application. The Secretary shall respond to an application with a notification of award of a grant, with a notification declining to award a grant, or with a request for additional information within 20 business days of receipt of an application. The Secretary shall respond to additional information submitted in response to a request within the time allowed for an initial response. A notification of award of a grant shall, at a minimum, indicate the percentage of qualifying expenses that will be used to calculate the award and any limitations on the maximum amount of the award.

(c1) Agreement. – Funds may be disbursed from the Film and Entertainment Grant Fund only in accordance with agreements entered into between the State and a production company. An agreement entered into pursuant to this subsection is a binding obligation of the State and is not subject to State funds being appropriated by the General Assembly.

(c2) Awards. – The maximum amount of total annual liability for grants awarded in any single calendar year under this section is sixty million dollars ($60,000,000). No agreement may be entered into that, when considered together with other existing agreements governing grants awarded during a single calendar year, could cause the State's potential total annual liability for grants awarded in a single calendar year to exceed this amount.

(d) Substantiation. – The Secretary shall work with the North Carolina Film Office to adopt guidelines to provide a process to verify the actual qualifying expenses of a certified production. The Secretary may not release grant funds until the substantiation process required by this subsection is complete and the final verified amount of qualified expenses is determined. The process shall require each of the following:

(1) The production company shall submit all the qualifying expenses for the production and data substantiating the qualifying expenses, including documentation on the net expenditure on equipment and other tangible

personal property to an independent certified public accountant licensed in this State.

(2) The accountant shall conduct a compliance audit, at the certified production's expense, pursuant to guidelines established by the Secretary and submit the results as a report, along with the required substantiating data, to the production company and the North Carolina Film Office.

(3) The North Carolina Film Office shall review the report and advise the Department on the final verified amount of qualifying expenses made by the certified production.

(e) Report. – The Department shall provide to the Department of Revenue, and the Department of Revenue must include in the economic incentives report required by G.S. 105-256, the following information, itemized by production company:

(1) The location of sites used in a production for which a grant was awarded.

(2) The qualifying expenses, classified by whether the expenses were for goods, services, or compensation paid by the production company.

(3) The number of people employed in the State with respect to grants awarded, including the number of residents of the State employed.

(4) The total cost of the grants awarded.

(f) NC Film Office. – To claim a grant under this section, a production company must notify the Division of Tourism, Film, and Sports Development in the Department of Commerce of its intent to apply for a grant. The notification must include the title of the production, the name of the production company, a financial contact for the production company, the proposed dates on which the production company plans to begin filming the production, and any other information required by the Division.

(g) Guidelines. – The Department of Commerce shall develop guidelines related to the administration of the Film and Entertainment Grant Fund and to the selection of productions that will receive grants from the Fund. At least 20 days before the effective date of any guidelines or nontechnical amendments to the guidelines, the Department of Commerce shall publish the proposed guidelines on the Department's Web site and provide notice to persons who have requested notice of proposed guidelines. In addition, the Department must accept oral and written comments on the proposed guidelines during the 15 business days beginning on the first day that the Department has completed these notifications.

(h) Clawback. – If a production company receiving a grant fails to meet or comply with any condition or requirement set forth in an agreement or with criteria developed by the Department, the Department shall reduce the amount of the grant or the term of the agreement or both. The reduction in the amount or the term must, at a minimum, be proportional to the failure to comply measured relative to the condition or criterion with respect to which the failure occurred. The Department may reduce the amount or term of a grant by notifying the production company of the reduction of the grant in accordance with program policies adopted by the Department for the treatment of failures by production companies to meet or comply with a condition or requirement set forth in the grant agreement, and it shall not be necessary to execute an amendment to the applicable grant agreement. The notification to an affected production company shall indicate the reduction in the amount or the term.

(i) Study. – The Department shall conduct a study to determine the minimum funding level required to implement the Film and Entertainment Grant Fund successfully. The Department shall report the results of this study to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division no later than April 1 of each year."

SECTION 4.(b) This Part is effective when it becomes law and applies to awards from the Film and Entertainment Grant Fund made on or after that date.

PART V. LOW-INCOME HOUSING TAX CREDITS

SECTION 5.(a) Article 3H of Subchapter I of Chapter 105 of the General Statutes is reenacted as it existed immediately before its repeal and reads as rewritten:

"Article 3E.

"Low-Income Housing Tax Credits.

"**§ 105-129.40. Scope and definitions.**

(a) Scope. – G.S. 105-129.41 applies to buildings that are awarded a federal credit allocation before January 1, 2003. G.S. 105-129.42 applies to buildings that are awarded a federal credit allocation on or after January 1, 2003.

(b) Definitions. – The definitions in section 42 of the Code and the following definitions apply in this Article:

(1) Housing Finance Agency. – The North Carolina Housing Finance Agency established in G.S. 122A-4.

(2) Pass-through entity. – Defined in G.S. 105-228.90.

…

"**§ 105-129.42. Credit for low-income housing awarded a federal credit allocation on or after January 1, 2003.**

(a) Definitions. – The following definitions apply in this section:

(1) Qualified Allocation Plan. – The plan governing the allocation of federal low-income housing tax credits for a particular year, as approved by the Governor after a public hearing and publication in the North Carolina Register.

(2) Qualified North Carolina low-income housing development. – A qualified low-income project or building that is allocated a federal tax credit under section 42(h)(1) of the Code and is described in subsection (c) of this section.

(3) Qualified residential unit. – A housing unit that meets the requirements of section 42 of the Code.

(b) Credit. – A taxpayer who is allocated a federal low-income housing tax credit under section 42 of the Code to construct or substantially rehabilitate a qualified North Carolina low-income housing development <u>located in a development tier one or two area, as defined in G.S. 143B-437.08, an urban progress zone, as defined in G.S. 143B-437.09, or an agrarian growth zone, as defined in G.S. 143B-437.010,</u> is allowed a credit equal to a percentage of the development's qualified basis, as determined pursuant to section 42 of the Code. For the purpose of this section, qualified basis is calculated based on the information contained in the carryover allocation and is not recalculated to reflect subsequent increases or decreases. No credit is allowed for a development that uses tax-exempt bond financing.

(c) Developments and Amounts. – The following table sets out the housing developments that are qualified North Carolina low-income housing developments and are allowed a credit under this section. The table also sets out the percentage of the development's qualified basis for which a credit is allowed. The designation of a county or city as Low Income, Moderate Income, or High Income and determinations of affordability are made by the Housing Finance Agency in accordance with the Qualified Allocation Plan in effect as of the time the federal credit is allocated. A change in the income designation of a county or city after a federal credit is allocated does not affect the percentage of the developer's qualified basis for which a credit is allowed. The affordability requirements set out in the chart apply for the duration of the federal tax credit compliance period. If in any year a taxpayer fails to meet these affordability requirements, the credit is forfeited under subsection (h) of this section.

Type of Development	Percentage of Basis for Which Credit is Allowed
Forty percent (40%) of the qualified residential units are affordable to households whose income is fifty percent (50%) or less of area median income and the units are in a Low-Income county or city.	Thirty percent (30%)
Fifty percent (50%) of the qualified residential units are affordable to households whose income is fifty percent (50%) or less of the area median income and the units are in a Moderate-Income county or city.	Twenty percent (20%)
Fifty percent (50%) of the qualified residential units are affordable to households whose income is forty percent (40%) or less of the area median income and the units are in a High-Income county or city.	Ten percent (10%)
Twenty-five percent (25%) of the qualified residential units are affordable to households whose income is thirty percent (30%) or less of the area median income and the units are in a High-Income county or city.	Ten percent (10%)

(d) Election. – When a taxpayer to whom a federal low-income housing credit is allocated submits to the Housing Finance Agency a request to receive a carryover allocation for that credit, the taxpayer must elect a method for receiving the tax credit allowed by this section. A taxpayer may elect to receive the credit in the form of either a direct tax refund or a loan generated by transferring the credit to the Housing Finance Agency. Neither a direct tax refund nor a loan received as the result of the transfer of the credit is considered taxable income under this Chapter.

Under the direct tax refund method, a taxpayer elects to apply the credit allowed by this section to the taxpayer's liability under Article 4 of this Chapter. If the credit allowed by this section exceeds the amount of tax imposed by Article 4 for the taxable year, reduced by the sum of all other credits allowable, the Secretary must refund the excess. In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before this credit. The provisions that apply to an overpayment of tax apply to the refundable excess of a credit allowed under this section.

Under the loan method, a taxpayer elects to transfer the credit allowed by this section to the Housing Finance Agency and receive a loan from that Agency for the amount of the credit. The terms of the loan are specified by the Housing Finance Agency in accordance with the Qualified Allocation Plan.

(e) Exception When No Carryover. – If a taxpayer does not submit to the Housing Finance Agency a request to receive a carryover allocation, the taxpayer must elect the method for receiving the credit allowed by this section when the taxpayer submits to the Agency federal Form 8609. A taxpayer to whom this subsection applies claims the credit for the taxable year in which the taxpayer submits federal Form 8609.

(f) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this Article does not distribute the credit among any of its owners. The pass-through entity is considered the taxpayer for purposes of claiming the credit allowed by this Article. If a return filed by a pass-through entity indicates that the entity is paying tax on behalf of the owners of the entity, the credit allowed under this Article does not affect the entity's payment of tax on behalf of its owners.

(g) Return and Payment. – A taxpayer may claim the credit allowed by this section on a return filed for the taxable year in which the taxpayer receives a carryover allocation of a federal low-income housing credit. The return must state the name and location of the qualified low-income housing development for which the credit is claimed.

If a taxpayer chooses the loan method for receiving the credit allowed under this section, the Secretary must transfer to the Housing Finance Agency the amount of credit allowed the taxpayer. The Agency must loan the taxpayer the amount of the credit on terms consistent with the Qualified Allocation Plan. The Housing Finance Agency is not required to make a loan to a qualified North Carolina low-income housing development until the Secretary transfers the credit amount to the Agency.

If the taxpayer chooses the direct tax refund method for receiving the credit allowed under this section, the Secretary must transfer to the Housing Finance Agency the refundable excess of the credit allowed the taxpayer. The Agency holds the refund due the taxpayer in escrow, with no interest accruing to the taxpayer during the escrow period. The Agency must release the refund to the taxpayer upon the occurrence of the earlier of the following:

(1) The Agency determines that the taxpayer has complied with the Qualified Allocation Plan and has completed at least fifty percent (50%) of the activities included in the development's qualified basis.

(2) Within 30 days after the date the development is placed in service.

(h) Forfeiture. – A taxpayer that receives a credit under this section must immediately report any recapture event under section 42 of the Code to the Housing Finance Agency. If the taxpayer or any of its owners are required under section 42(j) of the Code to recapture all or part of a federal credit with respect to a qualified North Carolina low-income development, the taxpayer forfeits the corresponding part of the credit allowed under this section. This requirement does not apply in the following circumstances:

(1) When the recapture of part or all of the federal credit is the result of an event that occurs in the sixth or a subsequent calendar year after the calendar year in which the development was awarded a federal credit allocation.

(2) The taxpayer elected to transfer the credit allowed by this section to the Housing Finance Agency.

(i) Liability From Forfeiture. – A taxpayer that forfeits all or part of the credit allowed under this section is liable for all past taxes avoided and any refund claimed as a result of the credit plus interest at the rate established under G.S. 105-241.21. The interest is computed from the date the Secretary transferred the credit amount to the Housing Finance Agency. The past taxes, refund, and interest are due 30 days after the date the credit is forfeited. A taxpayer that fails to pay the taxes, refund, and interest by the due date is subject to the penalties provided in G.S. 105-236.

…

"**§ 105-129.45. Sunset.**

This Article is repealed effective January 1, ~~2015.~~<u>2020.</u> The repeal applies to developments to which federal credits are allocated on or after January 1, ~~2015.~~<u>2020.</u>"

SECTION 5.(b) This Part is effective when it becomes law and applies to developments to which federal credits are allocated on or after that date.

PART VI. CREDIT FOR MANUFACTURING CIGARETTES FOR EXPORTATION

SECTION 6.(a) G.S. 105-130.45 reads as rewritten:

"**§ 105-130.45. Credit for manufacturing cigarettes for exportation.**

(a) Definitions. – The following definitions apply in this section:

(1) Base year exportation volume. – The number of cigarettes manufactured and exported by a corporation during the calendar year 2003.

(2) Exportation. – The shipment of cigarettes manufactured in the United States to any of the following sufficient to relieve the cigarettes in the shipment of the federal excise tax on cigarettes:

a. A foreign country.

b. A possession of the United States.

c. A commonwealth of the United States that is not a state.

(3) Successor in business. – A corporation that through amalgamation, merger, acquisition, consolidation, or other legal succession becomes invested with the rights and assumes the burdens of the predecessor corporation and continues the cigarette exportation business.

(b) Credit. – A corporation engaged in the business of manufacturing cigarettes for exportation to a foreign country and that waterborne exports cigarettes and other tobacco products through the North Carolina State Ports during the taxable year is allowed a credit against the taxes levied by this Part. The amount of credit allowed under this section is determined by comparing the exportation volume of the corporation in the year for which the credit is claimed with the corporation's base year exportation volume, rounded to the nearest whole percentage. In the case of a successor in business, the amount of credit allowed under this section is determined by comparing the exportation volume of the corporation in the year for which the credit is claimed with all of the corporation's predecessor corporations' combined base year exportation volume, rounded to the nearest whole percentage. The amount of credit allowed may not exceed six million dollars ($6,000,000) and is computed as follows:

Current Year's Exportation Volume Compared to its Base Year's Exportation Volume	**Amount of Credit per Thousand Cigarettes Exported**
120% or more	40¢
119% – 100%	35¢
99% – 80%	30¢
79% – 60%	25¢
59% – 50%	20¢
Less than 50%	None

(c) Cap. – The credit allowed under this section may not exceed the lesser of six million dollars ($6,000,000) or fifty percent (50%) of the amount of tax imposed by this Part for the taxable year reduced by the sum of all other credits allowable, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of the credit allowed in any tax year, including carryforwards claimed by the taxpayer under this section for previous tax years. Any unused portion of a credit allowed in this section may be carried forward for the next succeeding ten years.

(d) Documentation of Credit. – A corporation that claims the credit under this section must include the following with its tax return:

(1) A statement of the base year exportation volume.

(2) A statement of the exportation volume on which the credit is based.

(3) A list of the corporation's export volumes shown on its monthly reports to the Alcohol and Tobacco Tax and Trade Bureau of the United States Treasury for the months in the tax year for which the credit is claimed.

(e) No Double Credit. – A taxpayer may not claim this credit and the credit allowed under G.S. 105-130.46 for the same activity.

(f) Report. – The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer:

(1) The number of taxpayers taking a credit allowed in this section.
(2) The total amount of exports with respect to which credits were taken.
(3) The total cost to the General Fund of the credits taken.

(g) Sunset. – This section is repealed effective for cigarettes exported on or after January 1, 2020."

SECTION 6.(b) G.S. 105-130.46 reads as rewritten:

"**§ 105-130.46. Credit for manufacturing cigarettes for exportation while increasing employment and utilizing State Ports.**

(a) Purpose. – The credit authorized by this section is intended to enhance the economy of this State by encouraging qualifying cigarette manufacturers to increase employment in this State with the purpose of expanding this State's economy, the use of the North Carolina State Ports, and the use of other State goods and services, including tobacco.

(b) Definitions. – The following definitions apply in this section:

(1) Employment level. – The total number of full-time jobs and part-time jobs converted into full-time equivalences. A job is included in the employment level for a year only if that job is located within the State for more than six months of the year. A job is located in this State if more than fifty percent (50%) of the employee's duties are performed in this State.
(2) Exportation. – The shipment of cigarettes manufactured in the United States to a foreign country sufficient to relieve the cigarettes in the shipment of the federal excise tax on cigarettes.
(3) Full-time job. – A position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year.
(4) Successor in business. – A corporation that through amalgamation, merger, acquisition, consolidation, or other legal succession becomes invested with the rights and assumes the burdens of the predecessor corporation and continues the cigarette exportation business.

(c) Employment Level. – In order to be eligible for a full credit allowed under this section, the corporation must maintain an employment level in this State for the taxable year that exceeds the corporation's employment level in this State at the end of the 2004 calendar year by at least 800 full-time jobs. In the case of a successor in business, the corporation must maintain an employment level in this State for the taxable year that exceeds all its predecessor corporations' combined employment levels in this State at the end of the 2004 calendar year by at least 800 full-time jobs.

(d) Credit. – A corporation that satisfies the employment level requirement under subsection (c) of this section, is engaged in the business of manufacturing cigarettes for exportation, and exports cigarettes and other tobacco products through the North Carolina State Ports during the taxable year is allowed a credit as provided in this section. The amount of credit allowed under this section is equal to forty cents (40¢) per one thousand cigarettes exported. The amount of credit earned during the taxable year may not exceed ten million dollars ($10,000,000).

(e) Reduction of Credit. – A corporation that has previously satisfied the qualification requirements of this section but that fails to satisfy the employment level requirement in a succeeding year may still claim a partial credit for the year in which the employment level requirement is not satisfied. The partial credit allowed is equal to the credit that would otherwise be allowed under subsection (d) of this section multiplied by a fraction. The numerator of the fraction is the number of full-time jobs by which the corporation's employment level in this State for the taxable year exceeds the corporation's employment level in this State at the end of the 2004 calendar year. The denominator of the fraction is 800. In the case of a successor in business, the numerator of the fraction is the number of full-time jobs by which the corporation's employment level in this State for the taxable year exceeds all its predecessor corporations' combined employment levels in this State at the end of the 2004 calendar year.

(f) Allocation. – The credit allowed by this section may be taken against the income taxes levied under this Part or the franchise taxes levied under Article 3 of this Chapter. When the taxpayer claims a credit under this section, the taxpayer must elect the percentage of the credit to be applied against the taxes levied under this Part with any remaining percentage to be applied against the taxes levied under Article 3 of this Chapter. This election is binding for the year in which it is made and for any carryforwards. A taxpayer may elect a different allocation for each year in which the taxpayer qualifies for a credit.

(g) Ceiling. – The total amount of credit that may be taken in a taxable year under this section may not exceed the lesser of the amount of credit which may be earned for that year under subsection (d) of this section or fifty percent (50%) of the amount of tax against which the credit is taken for the taxable year reduced by the sum of all other credits allowable, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of the credit allowed in any tax year, including carryforwards claimed by the taxpayer under this section or G.S. 105-130.45 for previous tax years.

(h) Carryforward. – Any unused portion of a credit allowed in this section may be carried forward for the next succeeding 10 years. All carryforwards of a credit must be taken against the tax against which the credit was originally claimed. A successor in business may take the carryforwards of a predecessor corporation as if they were carryforwards of a credit allowed to the successor in business.

(i) Documentation of Credit. – A corporation that claims the credit under this section must include the following with its tax return:

(1) A statement of the exportation volume on which the credit is based.

(2) A list of the corporation's export volumes shown on its monthly reports to the Alcohol and Tobacco Tax and Trade Bureau of the United States Treasury for the months in the tax year for which the credit is claimed.

(3) Any other information required by the Department of Revenue.

(j) No Double Credit. – A taxpayer may not claim this credit and the credit allowed under G.S. 105-130.45 for the same activity.

(k) Report. – The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer:

(1) The number of taxpayers that took the credit allowed in this section.

(2) The amount of cigarettes and other tobacco products exported through the North Carolina State Ports with respect to which credits were taken.

(3) The percentage of domestic leaf content in cigarettes produced during the previous year, as reported by the taxpayer.

(4) The total cost to the General Fund of the credits taken.

<u>(l) Sunset. – This section expires for exports occurring on or after January 1, 2020.</u>"

SECTION 6.(c) This Part is effective when it becomes law.

PART VII. USE OF NORTH CAROLINA PORTS CREDIT

SECTION 7.(a) G.S. 105-130.41 is reenacted as it existed immediately before its repeal and reads as rewritten:

"**§ 105-130.41. Credit for North Carolina State Ports Authority wharfage, handling, and throughput charges.**

(a) Credit. – A taxpayer whose waterborne cargo is loaded onto or unloaded from an ocean carrier calling at the State-owned port terminal at Wilmington or Morehead City, without consideration of the terms under which the cargo is moved, is allowed a credit against the tax imposed by this Part. The amount of credit allowed is equal to the excess of the wharfage, handling (in or out), and throughput charges assessed on the cargo for the current taxable year over an amount equal to the average of the charges for the current taxable year and the two preceding taxable years. The credit applies to forest products, break-bulk cargo and container cargo, including less-than-container-load cargo, that is loaded onto or unloaded from an ocean carrier calling at either the Wilmington or Morehead City port terminal and to bulk cargo that is loaded onto or unloaded from an ocean carrier calling at the Morehead City port terminal. To obtain the credit, taxpayers must provide to the Secretary a statement from the State Ports Authority certifying the amount of charges for which a credit is claimed and any other information required by the Secretary.

(b) Limitations. – This credit may not exceed fifty percent (50%) of the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the corporation. Any unused portion of the credit may be carried forward for the succeeding five years. The maximum cumulative credit that may be claimed by a corporation under this section is two million dollars ($2,000,000).

(c) Definitions. – For purposes of this section, the terms "handling" (in or out) and "wharfage" have the meanings provided in the State Ports Tariff Publications, "Wilmington Tariff, Terminal Tariff #6," and "Morehead City Tariff, Terminal Tariff #1." For purposes of this section, the term "throughput" has the same meaning as "wharfage" but applies only to bulk products, both dry and liquid.

(c1) Report. – The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by taxpayer:

(1) The number of taxpayers taking a credit allowed in this section.
(2) The total amount of charges assessed for the taxable year.
(2a) The amount of the charges attributable to imports.
(2b) The amount of the charges attributable to exports.
(3) The total cost to the General Fund of the credits taken.

(d) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, ~~2014.~~2020."

SECTION 7.(b) This Part is effective for taxable years beginning on or after January 1, 2015.

PART VIII. QUALIFIED BUSINESS INVESTMENTS

SECTION 8.(a) Part 5 of Article 4 of Subchapter I of Chapter 105 of the General Statutes is reenacted as it existed immediately before its repeal and reads as rewritten:

"Part 5. Tax Credits for Qualified Business Investments.

…

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

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

(b) Individuals. – Subject to the limitations contained in G.S. 105-163.012, an individual who purchases the equity securities or subordinated debt of a qualified business directly from that business is allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit allowed an individual for one or more investments made in a single taxable year under this Part, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars ($50,000). The credit may not be taken for the year in which the investment is made but may be taken for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

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

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

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

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

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

…

"**§ 105-163.015. Sunset.**

This Part is repealed effective for investments made on or after January 1, ~~2014.~~<u>2020.</u>"

SECTION 8.(b) This Part is effective for taxable years beginning on or after January 1, 2015.

PART IX. JOB DEVELOPMENT INVESTMENT GRANT PROGRAM

SECTION 9.(a) Section 15.19(a1) of S.L. 2013-360 reads as rewritten:

"**SECTION 15.19.(a1)** Notwithstanding G.S. 143B-437.52(c), for the ~~2013-2015 fiscal biennium,~~<u>period from July 1, 2013, to December 31, 2015,</u> the maximum total liability for grants awarded, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is ~~twenty-two million five hundred thousand dollars ($22,500,000) and, for the period from July 1, 2015, to December 31, 2015, the maximum total liability for grants awarded, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is seven million five hundred thousand dollars ($7,500,000).~~<u>forty-five million dollars ($45,000,000).</u> No agreement may be entered into that, when considered together with other existing agreements governing grants awarded during an applicable time period provided in this subsection, could cause the State's potential total annual liability for grants awarded in that time period to exceed the designated maximum amount."

SECTION 9.(b) The title of Part 2G of Article 10 of Chapter 143B of the General Statutes reads as rewritten:

"Part 2G. ~~Job Development Investment Grant Program.~~Job Growth Reimbursement Opportunities – People Program."

SECTION 9.(c) G.S. 143B-437.52(a) is amended by adding a new subdivision to read:

"(6) For a project located in a development tier three area, the affected local governments have participated in recruitment and offered incentives in a manner appropriate to the project."

SECTION 9.(d) G.S. 143B-437.52(b) is repealed.

SECTION 9.(e) G.S. 143B-437.53 reads as rewritten:

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

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

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

…

(c) Health Insurance. – A business is eligible for a grant under this Part only if the business provides health insurance for all of the applicable full-time employees of the project with respect to which the grant is made. For the purposes of this subsection, an applicable full-time employee is one who earns from the business less than one hundred fifty thousand dollars ($150,000) in taxable compensation on an annualized basis or three and one-half times the annualized average State wage for all insured private employers in the State employing between 250 and 1,000 employees, whichever is greater. For the purposes of this subsection, a business provides health insurance if it pays at least fifty percent (50%) of the premiums for health care ~~coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.~~coverage.

Each year that a business receives a grant under this Part, the business must provide with the submission required under G.S. 143B-437.58 a certification that the business continues to provide health insurance, as required by this subsection, for all applicable full-time employees of the project with respect to which the grant is made. If the business ceases to provide the required health insurance, the Committee shall amend or terminate the agreement as provided in G.S. 143B-437.59."

SECTION 9.(f) G.S. 143B-437.56(d) reads as rewritten:

"(d) For any eligible position that is located in a development tier three area, ~~seventy-five percent (75%)~~seventy percent (70%) of the annual grant approved for disbursement shall be payable to the business, and ~~twenty-five percent (25%)~~thirty percent (30%) shall be payable to the Utility Account pursuant to G.S. 143B-437.61. For any eligible position that is located in a development tier two area, eighty-five percent (85%) of the annual grant approved for disbursement shall be payable to the business, and fifteen percent (15%) shall be payable to the Utility Account pursuant to G.S. 143B-437.61. A position is located in the development tier area that has been assigned to the county in which the project is located at the time the application is filed with the Committee."

SECTION 9.(g) G.S. 143B-437.57(a) reads as rewritten:

"(a) Terms. – Each community economic development agreement shall include at least the following:

…

(10) A provision that requires the business to maintain operations at the project location or another location approved by the Committee for at least one hundred fifty percent (150%) of the term of the grant and a provision to ~~permit~~ require the Committee to recapture ~~all or part~~ an appropriate portion of the grant ~~at its discretion~~ if the business does not remain at the site for the required term.

(11) A provision that requires the business to maintain employment levels in this State at the greater of the level of ~~the year immediately preceding the base period.~~employment on the date of the application or the level of employment on the date of the award.

…."

SECTION 9.(h) G.S. 143B-437.62 reads as rewritten:

"**§ 143B-437.62. Expiration.**

The authority of the Committee to award new grants expires January 1, ~~2016.~~2020."

SECTION 9.(i) The Revisor of Statutes shall make the conforming statutory changes necessary to the General Statutes to reflect renaming of the Job Development Investment Grant Program to the Job Growth Reimbursement Opportunities – People Program, as provided in this section.

SECTION 9.(j) The Department of Commerce shall study the factors that have contributed to the termination of grants awarded pursuant to Part 2G of Article 10 of Chapter 143B of the General Statutes. In conducting the study required by this subsection, the Department shall examine the efforts of other states that have permitted similar economic development programs to incent businesses to create jobs for the purpose of determining best practices for remediating underperformance of participating businesses in order to lower the incidence of community economic development agreements under G.S. 143B-437.57 ending in termination. The Department shall submit the report to the House of Representatives Finance Committee, the Senate Finance Committee, the House Committee on Agriculture and Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division no later than March 1, 2016.

SECTION 9.(k) This Part is effective when it becomes law.

PART X. JUMP-START OUR BUSINESS START-UPS ACT

SECTION 10.(a) G.S. 78A-17 is amended by adding a new subdivision to read:

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

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

"**§ 78A-17.1. Invest NC exemption.**

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

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

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

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

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

b. Two million dollars ($2,000,000), less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance upon this exemption, if the issuer has undergone and made available to each prospective investor and the Administrator the documentation resulting from a financial audit with respect to its most recently completed fiscal year and meeting generally accepted accounting principles.

(4) The issuer has not accepted more than two thousand dollars ($2,000) from any single purchaser unless the purchaser is an accredited investor as defined by rule 501 of SEC regulation D, 17 C.F.R. § 230.501.

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

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

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

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

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

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

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

5. The identity of any person who has been or will be retained by the issuer to assist the issuer in conducting the offering and sale of the securities, including any Web sites, but excluding persons acting solely as accountants or attorneys and employees whose primary job responsibilities involve the operating business of the issuer rather than assisting the issuer in raising capital, and for each person identified in response to this paragraph, a description of the consideration being paid to such person for such assistance.
6. A description of any litigation or legal proceedings involving the company or its management.
7. The names and addresses, including URL, of any Web sites that will be used in connection with the offering.

c. An escrow agreement with a bank or other depository institution located within this State in which the investor funds will be deposited, providing that all offering proceeds will be released to the issuer only when the aggregate capital raised from all investors is equal to or greater than the minimum target offering amount specified in the business plan as necessary to implement the business plan and that all investors may cancel their commitments to invest if that target offering amount is not raised by the time stated in the disclosure document.

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

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

"IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED BY SUBSECTION (E) OF SEC RULE 147, 17 C.F.R. § 230.147(E) AS PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE

THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME."

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

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

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

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

d. I may be subject to tax on my share of the taxable income and losses of the company, whether or not I have sold or otherwise disposed of my investment or received any dividends or other distributions from the company."

(9) If the offer and sale of securities is made through an Internet Web site, the following requirements apply:

a. Prior to the offer of an investment opportunity to residents of this State through a Web site, the issuer shall provide to the Web site and to the Administrator evidence that the issuer is organized under North Carolina law and that it is authorized to do business within the State.

b. The issuer shall obtain from each purchaser of a security under this section evidence that the purchaser is a resident of North Carolina and, if applicable, an accredited investor.

c. The Web site operator shall register with the Administrator by filing a statement that it is a business entity that is organized under North Carolina law and that it is authorized to do business within the State and that it is being utilized to offer and sell securities pursuant to this exemption. As part of the registration, the Web site shall notify the Administrator of its and the issuer's identity, location, and contact information.

d. The issuer and the Web site must keep and maintain records of the offers and sales of securities effected through the Web site and must provide ready access to the records to the Administrator, upon request. The Administrator may access, inspect, and review any Web site and its records.

(10) All payments for purchase of securities must be directed to and held by the bank or depository institution subject to the provisions of sub-subdivision (a)(5)c. of this section. The bank or depository institution shall notify the Administrator of the receipt of payments for securities and the identity and residence of the investors. The information shall be confidential and considered trade secrets within the scope of G.S. 132-1.2 while in the possession of the Administrator.

(11) No offers or sales of a security shall be made through an Internet Web site unless the Web site is registered with the Administrator pursuant to sub-subdivision (a)(9)c. of this section. The Web site shall not be subject to the registration provisions of G.S. 78A-36 provided that all of the following apply:

a. It does not offer investment advice or recommendations.

b. It does not solicit purchases, sales, or offers to buy the securities offered or displayed on the Web site.

c. It does not compensate employees, agents, or other persons for the solicitation or based on the sale of securities displayed or referenced on the Web site.

d. It is not compensated based on the amount of securities sold, and it does not hold, manage, possess, or otherwise handle investor funds or securities.

e. It does not engage in such other activities as the Administrator, by rule, determines appropriate.

(12) An executive officer, director, managing member, or person occupying a similar status or performing similar functions in the name of and on behalf of the issuer shall be exempt from the registration provisions of G.S. 78A-36, provided that the person does not receive, directly or indirectly, any commission or remuneration for offering and selling securities of the issuer pursuant to this exemption.

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

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

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

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

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

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

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

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

(g) Fee. – The Administrator shall charge a nonrefundable filing fee of one hundred fifty dollars ($150.00) for filing an exemption notice required by subsection (a) of this section. The fees paid to the Administrator pursuant to this subsection shall be used to pay the costs incurred in administering and enforcing this Chapter. The revenue derived from the fee shall be credited to a nonreverting agency revenue account."

SECTION 10.(c) Notwithstanding any provision of Article 2A of Chapter 150B of the General Statutes, within 12 months of the effective date of this act, the Secretary of State shall adopt rules to implement the provisions of this section in accordance with the following procedure:

(1) At least 15 business days prior to adopting a rule, submit the rule and a notice of public hearing to the Codifier of Rules. The Codifier of Rules shall publish the proposed rule and the notice of public hearing on the Internet within five business days.

(2) At least 15 business days prior to adopting a rule, notify persons on the mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of the Secretary's intent to adopt a rule and of the public hearing.

(3) Accept written comments on the proposed rule for at least 15 business days prior to adoption of the rule.

(4) Hold at least one public hearing on the proposed rule no less than five days after the rule and notice have been published.

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

SECTION 10.(d) Any rule adopted more than 12 months after the effective date of this section shall comply with the requirements of Article 2A of Chapter 150B of the General Statutes.

SECTION 10.(e) Subsection (a) of this section is effective when it becomes law and expires 12 months after the effective date of this act. Subsection (b) of this section becomes effective 12 months after the effective date of this act and expires on July 1, 2017. The remainder of this Part is effective when it becomes law and expires on July 1, 2017.

PART XI. ECONOMIC INCENTIVE REFUNDS

SECTION 11.(a) G.S. 105-164.14A reads as rewritten:

"**§ 105-164.14A. Economic incentive refunds.**

(a) Refund. – The following taxpayers are allowed an annual refund of sales and use taxes paid under this Article:

(1) Passenger air carrier. – An interstate passenger air carrier is allowed a refund of the sales and use tax paid by it on fuel in excess of two million five hundred thousand dollars ($2,500,000). The amount of sales and use tax paid does not include a refund allowed to the interstate passenger air carrier under G.S. 105-164.14(a). This subdivision is repealed for purchases made on or after January 1, ~~2016.~~2020.

…

(4) Motorsports team or sanctioning body. – A professional motorsports racing team, a motorsports sanctioning body, or a related member of such a team or body is allowed a refund of the sales and use tax paid by it in this State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel to a motorsports event in another state from a location in this State, or to travel to this State from a motorsports event in another state. For purposes of this subdivision, a "motorsports event" includes a motorsports race, a motorsports sponsor event, and motorsports testing. This subdivision is repealed for purchases made on or after January 1, ~~2016.~~2020.

(5) Professional motorsports team. – A professional motorsports racing team or a related member of a team is allowed a refund of fifty percent (50%) of the sales and use tax paid by it in this State on tangible personal property, other than tires or accessories, that comprises any part of a professional motorsports vehicle. For purposes of this subdivision, "motorsports accessories" includes instrumentation, telemetry, consumables, and paint. This subdivision is repealed for purchases made on or after January 1, ~~2016.~~2020.

(6) Analytical services business. – A taxpayer engaged in analytical services in this State is allowed a refund of sales and use tax paid by it. This subdivision is repealed for purchases made on or after January 1, ~~2014.~~2020. The amount of the refund is the greater of the following:

a. Fifty percent (50%) of the eligible amount of sales and use tax paid by it on tangible personal property that is consumed or transformed in analytical service activities. The eligible amount of sales and use tax paid by the taxpayer in this State is the amount by which sales and use tax paid by the taxpayer in this State in the fiscal year exceed the amount paid by the taxpayer in this State in the 2006-2007 State fiscal year.

b. Fifty percent (50%) of the amount of sales and use tax paid by it in the fiscal year on medical reagents.

(7) Railroad intermodal facility. – The owner or lessee of an eligible railroad intermodal facility is allowed a refund of sales and use tax paid by it under this Article on building materials, building supplies, fixtures, and equipment that become a part of the real property of the facility. Liability incurred indirectly by the owner or lessee of the facility for sales and use taxes on these items is considered tax paid by the owner or lessee. This subdivision is repealed for purchases made on or after January 1, 2038.

…."

SECTION 11.(b) This Part is effective when it becomes law. For purposes of analytical services business, this Part applies to purchases made on or after that date.

PART XII. RESEARCH AND DEVELOPMENT

SECTION 12.(a) Article 3F of Subchapter I of Chapter 105 of the General Statutes is reenacted as it existed immediately before its repeal and reads as rewritten:

"Article 3F.

"Research and Development.

…

"**§ 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.~~<u>2020.</u>

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

…

"**§ 105-129.55. Credit for North Carolina research and development.**

(a) Qualified North Carolina Research Expenses. – A taxpayer that has qualified North Carolina research expenses for the taxable year is allowed a credit equal to a percentage of the expenses, determined as provided in this section. Only one credit is allowed under this section with respect to the same expenses. If more than one subdivision of this section applies to the same expenses, then the credit is equal to the higher percentage, not both percentages combined. If part of the taxpayer's qualified North Carolina research expenses qualifies under more than one subdivision of this section, the applicable percentages apply separately to each part of the expenses.

(1) Small business. – If the taxpayer was a small business as of the last day of the taxable year, the applicable percentage is three and one-quarter percent (3.25%).

(2) Low-tier research. – For expenses with respect to research performed in a development tier one area, the applicable percentage is three and one-quarter percent (3.25%).

(2a) University research. – For North Carolina university research expenses, the applicable percentage is twenty percent (20%).

(2b) Eco-Industrial Park. – For expenses with respect to research performed in an Eco-Industrial Park certified under G.S. 143B-437.08, the applicable percentage is thirty-five percent (35%).

(3) Other research. – For expenses not covered under another subdivision of this section, the percentages provided in the table below apply to the taxpayer's qualified North Carolina research expenses during the taxable year at the following levels:

Expenses Over	**Up To**	**Rate**
-0-	$50 million	1.25%
$50 million	$200 million	2.25%
$200 million	–	3.25%

(b) Repealed by Session Laws 2010-147, s. 5.5, effective January 1, 2011.

"**§ 105-129.56. Interactive digital media.**

(a) IDM Defined. – Interactive digital media is a product that meets all of the following requirements:

(1) It is produced for distribution on electronic media, including distribution by file download over the Internet.

(2) It contains a computer-controlled virtual universe with which an individual who uses the program may interact in order to achieve a goal.

(3) It contains a significant amount of at least three of the following five types of data: animated images, fixed images, sound, text, and 3D geometry.

(b) Credit. – A taxpayer that develops in this State interactive digital media or a digital platform or engine for use in interactive digital media is allowed a credit equal to a percentage of the taxpayer's expenses that exceed fifty thousand dollars ($50,000) and that are paid during the taxable year in developing the media, platform, or engine. The percentage that applies to the expenses is determined under subsection (c) of this section. The expenses to which the credit applies are as follows:

(1) Compensation and wages for a full-time job on which withholding payments are remitted to the Department under Article 4A of this Chapter.

(2) Employee fringe contributions on compensation and wages included under subdivision (1) of this subsection, including health, pension, and welfare contributions.

(3) Amounts paid to a participating community college or a research university for services performed in this State.

(c) Percentage. – The percentage of the credit allowed under this section is as follows:

(1) Higher education collaboration. – Twenty percent (20%) for allowable expenses paid to a participating community college or a research university.

(2) Other. – Fifteen percent (15%) for allowable expenses not covered in subdivision (1) of this subsection.

(d) Limitations. – The amount of credit allowed a taxpayer under this section may not exceed seven million five hundred thousand dollars ($7,500,000). The credit allowed by this section does not apply to interactive digital media that meets any of the following descriptions:

(1) It is developed by the taxpayer for internal use.

(2) It is an interpersonal communications service, such as videoconferencing, wireless telecommunications, a text-based channel, or a chat room.

(3) It is an Internet site that is primarily static and primarily designed to provide information about one or more persons, businesses, companies, or firms.

(4) It is a gambling or casino game.

(5) It is political advertising.

(6) It contains material that is obscene, as defined in G.S. 14-190.1, or that is harmful to minors, as defined in G.S. 14-190.13.

(e) No Double Benefit. – A taxpayer that claims a credit under this section may not claim any of the following with respect to the expenses used to determine the credit under this section:

(1) A credit allowed under any other section of this Chapter.

(2) A grant from the Job Development Investment Grant Program, set out in Part 2G of Article 10 of Chapter 143B of the General Statutes.

(3) A grant from the One North Carolina Fund, set out in Part 2H of Article 10 of Chapter 143B of the General Statutes.

(f) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2020.

…."

SECTION 12.(b) This Part is effective for taxable years beginning on or after January 1, 2015. For purposes of G.S. 105-129.56, as reenacted by this Part, the credit applies to expenses occurring on or after that date.

PART XIII. RURAL ASSISTANCE

SECTION 13. For each Collaboration for Prosperity Zone established in G.S. 143B-28.1, the employees of the Department of Commerce in the zone shall examine each annual update of the plan required by G.S. 143B-434.01. The employees shall collate all information relevant to the zone, county, region, and other unit of local government in the zone and provide a copy of the collated information to each unit of local government within the zone. The collated information shall also include any additional regional assets not otherwise contained in the annual update. The employees shall work with each unit of local government in the zone in order to educate and assist each unit of local government in maximizing their economic potential and coordinating recruitment of industry to increase utilization of assets for economic development opportunities.

PART XIV. DATACENTER INFRASTRUCTURE ACT

SECTION 14.(a) G.S. 105-164.3 reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

…

(33) Purchase price. – The term has the same meaning as the term "sales price" when applied to an item subject to use tax.

(33a) Qualifying datacenter. – A datacenter that satisfies each of the following conditions:

a. The datacenter meets the wage standard and health insurance requirements of G.S. 143B-437.08A.

b. The Secretary of Commerce has made a written determination that at least seventy-five million dollars ($75,000,000) in private funds has been or will be invested by one or more owners, users, or tenants of the datacenter within five years of the date the owner, user, or tenant of the datacenter makes its first real or tangible property investment in the datacenter on or after January 1, 2012. Investments in real or tangible property in the datacenter made prior to January 1, 2012, may not be included in the investment required by this subdivision.

(33b) Real property contractor. – A person that contracts to perform construction, reconstruction, installation, repair, or any other service with respect to real property and to furnish tangible personal property to be installed or applied to real property in connection with the contract and the labor to install or apply the tangible personal property that becomes part of real property. The term includes a general contractor, a subcontractor, or a builder for purposes of G.S. 105-164.4H.

~~(33b)~~(33c) Related member. – Defined in G.S. 105-130.7A.

~~(33c)~~(33d) Remote sale. – A sale of tangible personal property or digital property ordered by mail, by telephone, via the Internet, or by another similar method, to a purchaser who is in this State at the time the order is remitted, from a retailer who receives the order in another state and delivers the property or causes it to be delivered to a person in this State. It is presumed that a resident of this State who remits an order was in this State at the time the order was remitted.

…."

SECTION 14.(b) G.S. 105-164.13 is amended by adding a new subdivision to read:

"(55a) Sales of electricity for use at a qualifying datacenter and datacenter support equipment to be located and used at the qualifying datacenter. As used in this subdivision, "datacenter support equipment" is property that is capitalized for tax purposes under the Code and is used either:

a. For the provision of a service or function included in the business of an owner, user, or tenant of the datacenter.

b. For the generation, transformation, transmission, distribution, or management of electricity, including exterior substations, generators, transformers, unit substations, uninterruptible power supply systems, batteries, power distribution units, remote power panels, and other capital equipment used for these purposes.

c. For HVAC and mechanical systems, including chillers, cooling towers, air handlers, pumps, and other capital equipment used for these purposes.

d. For hardware and software for distributed and mainframe computers and servers, data storage devices, network connectivity equipment, and peripheral components and equipment.

e. To provide related computer engineering or computer science research.

If the level of investment required by G.S. 105-164.3(33) is not timely made, the exemption provided under this subdivision is forfeited. If the level of investment required by G.S. 105-164.3(33) is timely made but any specific datacenter support equipment is not located and used at the qualifying datacenter, the exemption provided for such datacenter support equipment under this subdivision is forfeited. If the level of investment required by G.S. 105-164.3(33) is timely made but any portion of electricity is not used at the qualifying datacenter, the exemption provided for such electricity under this subdivision is forfeited. A taxpayer that forfeits an exemption under this subdivision is liable for all past taxes avoided as a result of the forfeited exemption, computed from the date the taxes would have been due if the exemption had not been allowed, plus interest at the rate established under G.S. 105-241.21. If the forfeiture is triggered due to the lack of a timely investment required by G.S. 105-164.3(33), interest is computed from the date the taxes would have been due if the exemption had not been allowed. For all other forfeitures, interest is computed from the time as of which the datacenter support equipment or electricity was put to a disqualifying use. The past taxes and interest are due 30 days after the date the exemption is forfeited. A taxpayer that fails to pay the past taxes and interest by the due date is subject to the provisions of G.S. 105-236."

SECTION 14.(c) This Part becomes effective July 1, 2015, and applies to sales made on or after that date.

PART XV. MODIFICATION TO TAX IMPOSED ON COMPANIES LOCATED AT PORTS FACILITIES

SECTION 15.(a) G.S. 105-187.51B(a) reads as rewritten:

"**§ 105-187.51B. Tax imposed on certain recyclers, research and development companies, industrial machinery refurbishing companies, and companies located at ports facilities.**

(a) Tax. – A privilege tax is imposed on the following:

…

(5) A company located at a ports facility for waterborne commerce that purchases specialized equipment or an attachment or repair part for

specialized equipment to be used at the facility to unload or process bulk cargo to make it suitable for delivery to and use by manufacturing facilities."

SECTION 15.(b) This Part becomes effective July 1, 2015, and applies to sales made on or after that date.

PART XVI. EFFECTIVE DATE

SECTION 16. Except as otherwise provided, this act is effective when it becomes law.