

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 2028
Committee Substitute Favorable 6/25/07

Short Title: NC Venture Capital Enhancement Act.

(Public)

Sponsors:

Referred to:

May 10, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO PROMOTE RENEWABLE ENERGY, JOB CREATION, AND
3 VENTURE CAPITAL.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 105 of the General Statutes is amended by creating a
6 new Article to read:

7 "Article 3K.

8 "Venture Capital Enhancement.

9 **"§ 105-129.100. Title.**

10 This Article is known as the "North Carolina Venture Capital Enhancement Act".

11 **"§ 105-129.101. Findings; purpose.**

12 (a) The General Assembly finds that:

13 (1) Fundamental changes have occurred in national and international
14 financial markets and in the State's financial markets.

15 (2) A critical shortage of seed and venture capital resources exists in the
16 State, and that shortage is impairing the growth of commerce in the
17 State.

18 (3) A need exists to increase the availability of venture equity capital for
19 emerging, expanding, and restructuring enterprises in North Carolina,
20 including enterprises in the life sciences, advanced manufacturing, and
21 information technology.

22 (4) Increased venture equity capital investments in emerging, expanding,
23 and restructuring enterprises in North Carolina will create new jobs in
24 the State and help to diversify the State's economic base.

25 (5) A well-trained workforce is critical for the maintenance and
26 development of North Carolina's economy.

27 (b) This Article is enacted to accomplish the following:

28 (1) Mobilize private investment in a broad variety of venture capital
29 partnerships in diversified industries and locales.

- 1 (2) Retain the private-sector culture of focusing on rate of return in the
2 investing process.
- 3 (3) Secure the services of the best managers in the venture capital
4 industry, regardless of location.
- 5 (4) Facilitate the organization of the North Carolina Capital Venture Fund
6 to seek private investments and to create interest in those investments
7 by offering State incentives for private persons to make investments in
8 the North Carolina Capital Venture Fund.
- 9 (5) Promote the renewable energy, high technology, and biotechnology
10 industries.
- 11 (6) Accomplish the purposes referred to in subdivisions (a)(1) through (5)
12 of this section in a manner that would maximize the direct economic
13 impact for the State while minimizing any appropriations by the State.

14 **§ 105-129.102. Definitions.**

15 The following definitions apply in this Article:

- 16 (1) Board. – The North Carolina Capital Investment Board.
- 17 (2) Certificate. – A contract between the Board and a designated investor
18 under which a contingent tax credit is available and issued to the
19 designated investor which includes principal and targeted rate of
20 return.
- 21 (3) Contingent tax credit. – A contingent tax credit issued under this
22 Article that is available against tax liabilities imposed by Articles 3
23 and 4 of Chapter 105 of the General Statutes, if there are insufficient
24 funds in the redemption reserve, and the Board has not exercised other
25 options for redemption under G.S. 105-129.119.
- 26 (4) Corporation. – The North Carolina Capital Investment Corporation
27 created under G.S. 105-129.106.
- 28 (5) Department. – The Department of Revenue.
- 29 (6) Designated investor. – A person who purchases an equity interest in
30 the Fund or a transferee of a certificate or contingent tax credit.
- 31 (7) Designated purchaser. – A person who enters into a written
32 undertaking with the Board to purchase a commitment or a transferee
33 who assumes the obligations to make the purchase described in the
34 commitment.
- 35 (8) Fund. – The North Carolina Capital Venture Fund.
- 36 (9) High technology. – Machinery or equipment that generates renewable
37 energy.
- 38 (10) Investment manager. – A person designated by the Corporation as its
39 investment manager under this Article.
- 40 (11) North Carolina Capital Venture Fund. – A private, for-profit limited
41 partnership or limited liability company established under
42 G.S. 105-129.112 in which a designated investor purchases an equity
43 interest.

- 1 (12) Person. – An individual, partnership, limited liability company,
2 corporation, association, organization, business trust, estate, trust, or
3 any other legal or commercial entity.
- 4 (13) Redemption reserve. – The reserve established by the corporation to
5 facilitate the cash redemption of certificates.
- 6 (14) Renewable energy. – Energy that is derived from one or more of the
7 following:
- 8 a. Biomass equipment that uses renewable biomass resources for
9 biofuel production of ethanol, methanol, and biodiesel;
10 anaerobic biogas production of methane utilizing agricultural
11 and animal waste or garbage; or commercial thermal or
12 electrical generation. The term also includes related devices for
13 converting, conditioning, and storing the liquid fuels, gas, and
14 electricity produced with biomass equipment.
- 15 b. Hydroelectric generators located at existing dams or in
16 free-flowing waterways, and related devices for water supply
17 and control and converting, conditioning, and storing the
18 electricity generated.
- 19 c. Solar energy equipment that uses solar radiation as a substitute
20 for traditional energy for water heating, active space heating
21 and cooling, passive heating, daylighting, generating electricity,
22 distillation, desalination, detoxification, or the production of
23 industrial or commercial process heat. The term also includes
24 related devices necessary for collecting, storing, exchanging,
25 conditioning, or converting solar energy to other useful forms
26 of energy.
- 27 d. Wind equipment required to capture and convert wind energy
28 into electricity or mechanical power, and related devices for
29 converting, conditioning, and storing the electricity produced.
- 30 e. Geothermal equipment that uses the internal heat of the earth as
31 a substitute for traditional energy for water heating and active
32 space heating and cooling.
- 33 (15) Secretary. – The Secretary of Revenue.
- 34 (16) Shortfall amount. – The difference between the amounts in the
35 redemption reserve and the amount of certificates scheduled for
36 redemption.
- 37 (17) Target rate of return. – The designated investor's percentage return on
38 its investment in the Corporation, calculated on a per annum basis.

39 **§ 105-129.103. North Carolina Capital Investment Board.**

40 (a) There is created within the Department of the State Treasurer the North
41 Carolina Capital Investment Board to exercise the powers conferred by this Article. The
42 purpose of the Board is to mobilize venture equity capital for investment in a manner
43 that will result in a significant potential to create jobs and to diversify and stabilize the
44 economy of the State.

1 **(b)** The Board shall consist of five members. One member shall be the State
2 Treasurer. Four shall be appointed by the Governor. The four members appointed by the
3 Governor shall serve five-year staggered terms with the initial terms of the first four
4 members to be five years for one member, fours years for one member, and three years
5 for the remaining members.

6 **(c)** When a vacancy occurs in the membership of the Board for any reason, the
7 vacancy shall be filled in the same manner as the appointment of the original member
8 for the unexpired term of the Board member being replaced.

9 **(d)** Appointed members of the Board may not serve more than two full
10 consecutive terms except where the Governor determines that an additional term is in
11 the best interest of the State.

12 **(e)** Three members of the Board constitute a quorum for conducting business and
13 exercising Board power, provided that a minimum of three affirmative votes is required
14 for Board action and at least one of the affirmative votes is cast by the State Treasurer.

15 **(f)** Members of the Board may not receive compensation or benefits for their
16 services but may receive per diem and expenses incurred in the performance of the
17 members' official duties at rates established in G.S. 138-5. Members of the Board may
18 decline to receive per diem and expenses for their services.

19 **(g)** Members of the Board shall be selected on the basis of demonstrated
20 expertise and competence in at least one of the following:

21 **(1)** The supervision of investment managers.

22 **(2)** The fiduciary management of investment funds.

23 **(3)** The management and administration of tax credit allocation programs.

24 **(h)** The Board and its members are considered to be a governmental entity with
25 all of the rights, privileges, and immunities of a governmental entity of the State.

26 **(i)** Meetings of the Board, except to the extent necessary to protect confidential
27 information with respect to investments in the Fund, are subject to Article 33C of
28 Chapter 143 of the General Statutes.

29 **"§ 105-129.104. Board duties and powers.**

30 **(a)** The duties of the Board include the following:

31 **(1)** To establish procedures for the issuance of contingent tax credits to
32 designated investors by means of certificates issued by the Board. A
33 contingent tax credit may not be issued unless the Fund first agrees to
34 treat the amount of the tax credit redeemed by the State as a loan from
35 the State to the Fund and agrees to repay the loan upon terms and
36 conditions established by the Board.

37 **(2)** To establish procedures for assessing the likelihood of future
38 certificate redemptions by designated investors, including criteria and
39 procedures for evaluating the value of investments made by the Fund
40 and the returns from the Fund.

41 **(3)** To establish procedures for registering and redeeming contingent tax
42 credits by designated investors holding certificates issued by the
43 Board.

- 1 (4) To establish a target rate of return or range of returns on venture
2 capital investments of the Fund.
- 3 (b) The Board shall have the power to do the following:
- 4 (1) Expend funds.
- 5 (2) Enter into contracts.
- 6 (3) Insure against loss.
- 7 (4) Make, amend, and revoke rules for the conduct of its affairs, consistent
8 with this Article and in accordance with the North Carolina
9 Administrative Procedure Act. All rules made by the Board under this
10 subdivision are subject to review by the Rules Review Commission.
- 11 (5) Perform any other act necessary to carry out its purpose.

12 **"§ 105-129.105. Criteria established by Board in fulfillment of duties.**

13 (a) The procedures established by the Board for the issuance of contingent tax
14 credits shall include the contingencies that must be met for a certificate and its related
15 tax credits to be issued by the Board, transferred by a designated investor, and redeemed
16 by a designated investor in order to receive a contingent tax credit. In addition,
17 procedures under this subsection shall also tie the contingencies for redemption of
18 certificates to the targeted rates of return and scheduled redemptions of equity interests
19 purchased by designated investors in the Fund.

20 (b) The Board may charge a placement fee to the Fund for the issuance of a
21 certificate and related contingent tax credit to a designated investor. The fee shall be
22 charged only to pay for reasonable and necessary costs of the Board and may not exceed
23 one-half of one percent (.5%) of the equity investment of the designated investor.

24 (c) The procedures established by the Board for redeeming certificates shall give
25 priority to the redemption amount from the available funds in the redemption reserve.
26 To the extent there are insufficient funds in the redemption reserve to redeem
27 certificates, the investment manager shall certify the shortfall amount and instruct the
28 issuance of tax credit certificates to the designated investor in the shortfall amount.

29 (d) The Board shall, in consultation with the Corporation, publish an annual
30 report of the activities conducted by the Fund and present the report to the Governor and
31 the Joint Legislative Commission on Governmental Operations. The annual report may
32 not identify any specific designated investor who has redeemed or transferred a
33 certificate. The annual report shall contain the following:

- 34 (1) A copy of the audit of the Fund and a valuation of the assets of the
35 Fund.
- 36 (2) A review of the progress of the investment fund allocation manager in
37 implementing its investment plan.
- 38 (3) A description of any redemption or transfer of a certificate issued
39 under this Article.

40 (e) Beginning July 1, 2009, and thereafter every two years, the Board shall
41 publish a progress report which shall evaluate the progress of the State in accomplishing
42 the purposes stated in G.S. 105-129.101. The Board shall give a copy of the report to the
43 General Assembly.

1 "§ 105-129.106. North Carolina Capital Investment Corporation; powers and
2 purposes.

3 (a) There is created an independent quasi-public nonprofit corporation known as
4 the North Carolina Capital Investment Corporation. For purposes of this section,
5 "quasi-public" corporation is defined as an artificial person, private in ownership,
6 individually created as a corporation by the State which has accepted from the State the
7 grant of a franchise or contract involving the performance of a public purpose relating to
8 the State of its citizens.

9 (b) The Corporation shall file with the Secretary of State articles of incorporation
10 and any amendment to its articles of incorporation. In addition to the articles of
11 incorporation, the Corporation may adopt bylaws and operational policies that are
12 consistent with this Article.

13 (c) The purposes of the Corporation include the following:

14 (1) To organize the Fund.

15 (2) To select a venture capital investment fund allocation manager to
16 make venture capital fund investments by the Fund.

17 (3) To negotiate the terms of a contract with the venture capital investment
18 fund allocation manager.

19 (4) To execute the contract with the selected venture capital investment
20 fund manager on behalf of the Fund.

21 (5) To receive funds paid by designated investors for the issuance of
22 certificates by the Board for investment in the Fund.

23 (6) To receive investment returns from the Fund.

24 (7) To establish the redemption reserve to be used by the Corporation to
25 redeem certificates.

26 (d) The Corporation is prohibited from exercising governmental functions,
27 having members, pledging the credit or taxing power of the State or any political
28 subdivision of the State, or making its debts payable out of any moneys except those of
29 the Corporation. The obligations of the Corporation are not obligations of the State or
30 any political subdivision of the State within the meaning of any constitutional or
31 statutory debt limitations, but are obligations of the corporation payable solely and only
32 from the Corporation's funds.

33 (e) The Corporation is authorized to engage consultants and legal counsel,
34 expend and invest funds, enter into contracts, insure against loss, hire employees, and
35 perform any other act necessary to carry out its purposes.

36 "§ 105-129.107. Incorporator; appointment committee.

37 The State Treasurer shall serve as the incorporator of the Corporation. The State
38 Treasurer shall appoint three individuals to serve on an appointment committee, which
39 will elect the initial board of directors of the corporation. In electing the initial board of
40 directors, the appointment committee shall exercise due care to assure that persons
41 elected have the requisite financial experience necessary in order to carry out the duties
42 of the corporation as established in this Article, including in areas related to venture
43 capital investment, investment management, and supervision of investment managers

1 and investment funds. The appointment committee shall terminate its existence upon the
2 election of the initial board of directors of the corporation.

3 **"§ 105-129.108. Board of directors.**

4 (a) The initial board of directors of the corporation shall consist of five members.
5 After the election of the initial board of directors, vacancies in the board of directors of
6 the corporation shall be filled by election by the remaining directors of the corporation.

7 (b) Board members shall serve three-year terms, except that of the five initial
8 members, two shall serve three-year terms, two shall serve two-year terms, and one
9 shall serve a one-year term. Board members shall serve until their successors are elected
10 and qualified and may serve successive terms. A majority of the Board members may
11 remove a Board member for cause. The Board shall select a chair by majority vote for a
12 term of one year. Three members of the Board are a quorum for the transaction of
13 business.

14 (c) Members of the board of directors are subject to any restrictions on conflicts
15 of interest specified in the organizational documents of the corporation. Members are
16 not permitted to have any interest in any venture capital investment fund allocation
17 manager selected by the corporation under this Article or in any investments made by
18 the Fund.

19 (d) Directors of the corporation shall be compensated for direct expenses and
20 mileage but may not receive a director's fee or salary for service as directors.

21 **"§ 105-129.109. Investment manager.**

22 (a) After incorporation, the corporation shall conduct a national solicitation for
23 investment plan proposals from qualified venture capital investment fund allocation
24 managers for the raising and investing of capital by the Fund in accordance with the
25 requirements of this section. The selected venture capital investment fund allocation
26 manager shall have substantial, successful experience in the design, implementation,
27 and management of seed and venture capital investment programs and in capital
28 formation and shall have demonstrated expertise in the management and fund allocation
29 of investments in venture capital funds.

30 (b) Any proposed investment plan shall address the applicant's level of
31 experience and quality of management, investment philosophy and process, probability
32 of success in fund-raising, prior investment fund results, and plan for achieving the
33 purposes of this section.

34 **"§ 105-129.110. Management fee; additional financial assistance.**

35 The corporation may charge a management fee on assets under management in the
36 Fund. The fee shall be no more than necessary to pay for reasonable and necessary costs
37 of the corporation and shall be in addition to any fee charged to the Fund by the venture
38 capital investment fund allocation manager selected by the corporation.

39 **"§ 105-129.111. Dissolution.**

40 Upon the dissolution of the Fund, the corporation shall be liquidated and dissolved.
41 Upon dissolution or privatization of the corporation, any assets owned by the
42 corporation shall be distributed to the State.

43 **"§ 105-129.112. Organization of North Carolina Capital Venture Fund.**

1 (a) The corporation shall organize the Fund. The Fund shall be organized as a
2 private, for-profit, limited partnership or limited liability company under North Carolina
3 law having the corporation as the general partner or manager. The Fund shall make
4 investments in private seed and venture capital partnerships or entities in a manner and
5 for the following purposes:

6 (1) To encourage the availability of a wide variety of venture capital in the
7 State.

8 (2) To strengthen the economy of the State.

9 (3) To help business in the State gain access to sources of capital.

10 (4) To help build a significant, permanent source of capital available to
11 serve the needs of businesses in the State.

12 (5) To accomplish all these benefits in a way that minimizes the use of
13 contingent tax credits.

14 (b) The Fund shall be organized to provide for equity interests for designated
15 investors which provide for a designated scheduled rate of return and a scheduled
16 redemption in accordance with rules made by the Board pursuant to the North Carolina
17 Administrative Procedure Act.

18 **"§ 105-129.113. Compensation from the North Carolina Capital Venture Fund to**
19 **the corporation; redemption reserve.**

20 Any returns in excess of those payable to designated investors shall be deposited in
21 the redemption reserve and held by the corporation as a first-priority reserve for the
22 redemption of certificates. Any returns received by the corporation from investment of
23 amounts held in the redemption reserve shall be added to the redemption reserve until it
24 has reached a total of one hundred million dollars (\$100,000,000). If at the end of any
25 calendar year the redemption reserve exceeds one hundred million dollars
26 (\$100,000,000), the excess shall be deposited in the General Fund no later than April 1
27 of the following year. Funds held by the corporation in the redemption reserve shall be
28 invested in a manner consistent with the exercise of ordinary business care and
29 prudence under the facts and circumstances prevailing at the time. In so doing, the funds
30 shall be invested with consideration given to the long- and short-term needs of the
31 corporation, its present and anticipated financial requirements, expected total returns,
32 and general economic conditions.

33 **"§ 105-129.114. Investments by North Carolina Capital Venture Fund.**

34 (a) The Fund shall make determinations of whether to invest funds in venture
35 capital funds based on the following factors:

36 (1) Whether the venture capital fund is managed by investment managers
37 who have made a commitment to equity investments in businesses
38 located within the State and who have committed to maintain a
39 physical presence within the State. In evaluating the commitment to
40 equity investments in businesses located within the State, the Fund
41 shall consider the following:

42 a. The investments made in North Carolina-based entities.

43 b. The correspondent relationships established with North
44 Carolina-based venture capital funds.

1 c. The commitment made to expand the reach of expertise within
2 the State by adding additional investment areas of expertise.

3 (2) Whether the venture capital fund has an experienced manager or
4 management team with demonstrated expertise and a successful
5 history in the investment of venture capital funds.

6 (b) Notwithstanding subsection (a) of this section, the Fund may invest funds in a
7 newly created venture capital fund if the managers or management team of the fund
8 have the experience, expertise, and a successful history in the investment of venture
9 capital funds as described in subdivision (a)(2) of this section.

10 (c) At minimum, ten percent (10%) of the Fund shall be invested in the
11 renewable energy sector, ten percent (10%) of the Fund shall be invested in high
12 technology, and ten percent (10%) of the Fund shall be invested in biotechnology.

13 **"§ 105-129.115. Powers of North Carolina Capital Venture Fund.**

14 The Fund is authorized to engage consultants and legal counsel, expend and invest
15 funds, enter into contracts, insure against loss, hire employees, issue equity interests to
16 designated investors that have purchased certificates from the Board, and perform any
17 other act necessary to carry out its purposes. In addition, the Fund may issue debt and
18 borrow the funds needed to accomplish its goals, open and manage bank and short-term
19 investment accounts as considered necessary by the venture capital investment fund
20 allocation manager, and expend moneys to secure investment ratings for investments by
21 designated investors in the Fund.

22 **"§ 105-129.116. Annual audits.**

23 (a) Each calendar year, an audit of the activities of the Fund shall be made as
24 described in this section, the costs associated with which shall be paid by the
25 corporation. The audit shall be conducted by the State Auditor or an independent auditor
26 engaged by the State Auditor. An independent auditor may have no business,
27 contractual or other connection, to the corporation or the Fund.

28 (b) The annual audit report shall include a valuation of the assets owned by the
29 Fund as of the end of the reporting year. The report shall be delivered to the corporation
30 and the Board.

31 **"§ 105-129.117. Certificates and contingent tax credits.**

32 (a) In accordance with Chapter 150B of the General Statutes, the Administrative
33 Procedure Act, the Board shall make rules governing the form, issuance, and
34 redemption of certificates. The Board's issuance of certificates and related contingent
35 tax credits to designated investors shall be subject to the following:

36 (1) The aggregate outstanding certificates may not exceed a total of one
37 hundred million dollars (\$100,000,000) of contingent tax credits.

38 (2) The certificates shall be issued contemporaneously with an investment
39 in the Fund by a designated investor.

40 (3) Contingent tax credits shall be issued in a manner that not more than
41 twenty million dollars (\$20,000,000) of contingent tax credits may be
42 initially redeemable in any fiscal year.

43 (4) The credits are issued if there are insufficient funds in the redemption
44 reserve to make a cash redemption.

1 (b) In determining the one-hundred-million-dollar (\$100,000,000) maximum
2 limit in subdivision (a)(1) of this section and the twenty-million-dollar (\$20,000,000)
3 limitation in subdivision (a)(3) of this section, tax credits issued against a certificate
4 redemption is deemed to be redeemed in that fiscal year.

5 (c) Contingent tax credits may not be redeemed except by a designated investor
6 in accordance with its terms and may not be redeemed prior to the time the Fund
7 receives full payment from the designated investor for the certificate. A contingent tax
8 credit shall be claimed for a tax year that begins during the calendar year maturity date
9 stated on the certificate. An investor who redeems a certificate and the related
10 contingent tax credit shall allocate the amount of the contingent tax credit to the
11 taxpayers of the investor based on the taxpayer's pro rata share of the investor's
12 earnings. Any contingent tax credit in excess of the taxpayer's tax liability for the tax
13 year may be refunded to the investor.

14 (d) In calculating the amount of a contingent tax credit, the following
15 requirements shall be observed:

16 (1) A contingent tax credit shall be certified by the investment manager
17 only if the actual return to the designated investor is less than the
18 targeted rate of return.

19 (2) The amount of the contingent tax credit may not exceed the shortfall
20 amount; and

21 (3) The rates, whether fixed rates or variable rates, shall be determined by
22 a formula stipulated in the certificate.

23 (e) The Board shall clearly indicate the following information on the certificate:

24 (1) The targeted return on the investment.

25 (2) The amount of the initial investment.

26 (3) The calculation formula for determining the scheduled aggregate
27 return on the initial investment.

28 (4) The calculation formula for determining the amount of the contingent
29 tax credit that may be claimed.

30 (f) Once moneys are invested by a designated investor, the certificate shall be
31 binding on the Board and may not be modified, terminated, or rescinded. Funds invested
32 by a designated investor for a certificate shall be paid to the corporation for placement
33 in the Fund.

34 **"§ 105-129.118. Transfer and registration of certificates.**

35 (a) A certificate and the related contingent tax credit may be transferred by the
36 designated investor. The Board shall develop a system for registration of any certificate
37 and related contingent tax credit issued or transferred under this Article. The system
38 shall also permit verification that any contingent tax credit claimed upon a tax return is
39 valid and any transfers of the certificate and related contingent tax credit were made in
40 accordance with the requirements of this Article.

41 (b) A certificate or contingent tax credit issued or transferred under this Article is
42 not a security under Chapter 78A of the General Statutes.

43 **"§ 105-129.119. Redemption of certificates.**

1 (a) When a designated investor redeems a certificate, the certificate shall be
2 presented to the investment manager for redemption on the scheduled date of
3 redemption. The investment manager shall determine and certify the amount of the
4 contingent tax credit that may be claimed by the designated investor. This determination
5 shall be based upon the limitations in G.S. 105-129.117 and any rules made by the
6 Board in accordance with Chapter 150B of the General Statutes, the Administrative
7 Procedure Act, prior to the date in which the designated investors made the investment.

8 (b) If there are sufficient funds in the redemption reserve, the Board shall direct
9 the corporation to make a cash redemption of the certificate. If there are insufficient
10 funds in the redemption reserve, the Board will redeem the certificate by certifying a
11 contingent tax credit to the designated investor.

12 (c) Upon issuance of the certificates, the Board shall certify to the Department
13 the contingent tax credit which can be claimed by the designated investor with respect
14 to the redemption of the certificate.

15 **"§ 105-129.120. Powers and effectiveness.**

16 (a) This Article may not be construed as a restriction or limitation upon any
17 power which the Board might otherwise have under any other law of this State, and the
18 provisions of this Article are cumulative to those powers. This Article shall be construed
19 to provide a complete, additional, and alternative method for performing the duties
20 authorized and shall be regarded as bestowing supplemental, additional powers to those
21 conferred by any other laws.

22 (b) The provisions of any contract entered into by the Board or the Fund may not
23 be compromised, diminished, invalidated, or affected by either of the following:

24 (1) The level, timing, or degree of success of the Fund or the investment
25 funds in which the Fund invests.

26 (2) The extent to which the investment funds are invested in North
27 Carolina venture capital projects or are successful in accomplishing
28 any economic development objectives.

29 (c) Once issued, the certificates and related contingent tax credits shall be
30 irrevocable obligations of the Corporation and the State, respectively.

31 **"§ 105-129.121. Permissible investments.**

32 Investments by designated investors in the Fund are permissible investments under
33 applicable laws of the State for State-chartered banks, State-chartered savings and loan
34 associations, State-chartered credit unions, State-chartered industrial loan corporations,
35 domestic insurance companies, or any combination thereof.

36 **"§ 105-129.122. Exemption from certain statutes.**

37 Except as otherwise provided in this Article, the corporation is exempt from statutes
38 governing State agencies. The corporation shall be subject to Article 33C of Chapter
39 143 of the General Statutes.

40 **"§ 105-129.123. Severability.**

41 If any provision of this act or its application is held invalid, the invalidity does not
42 affect other provisions or applications of this act that can be given effect without the
43 invalid provisions or application, and to this end the provisions of this act are severable.

44 **SECTION 2.** This act is effective when it becomes law.