GENERAL ASSEMBLY OF NORTH CAROLINA

SECOND EXTRA SESSION 1996

H **5**

HOUSE BILL 18
Committee Substitute Favorable 7/9/96
Third Edition Engrossed 7/11/96
Senate Finance Committee Substitute Adopted 7/17/96
Fifth Edition Engrossed 7/19/96

Short Title: Tax Reduction Act of 1996. (Public)

Sponsors:

Referred to:

July 8, 1996

A BILL TO BE ENTITLED

AN ACT TO ALLOW INCOME AND FRANCHISE TAX CREDITS FOR INVESTMENT IN MACHINERY AND EQUIPMENT, CREATING JOBS, INCREASING RESEARCH AND DEVELOPMENT, AND WORKER TRAINING, TO MODIFY THE SALES TAX TREATMENT OF BUNDLED TRANSACTIONS, TO EXPAND THE PROPERTY TAX HOMESTEAD EXEMPTION, AND TO REDUCE THE FRANCHISE TAX ON CERTAIN INVENTORIES.

The General Assembly of North Carolina enacts:

TABLE OF CONTENTS

Section 1. This act shall be known as the William S. Lee Quality Jobs and Business Expansion Act.

PART I. QUALITY JOBS AND BUSINESS EXPANSION TAX CREDITS

Sec. 1.1. Chapter 105 of the General Statutes is amended by adding a new Article 3A entitled "Tax Incentives for New and Expanding Businesses."

Sec. 1.2. G.S. 105-130.40 is recodified as G.S. 105-129.8 in Article 3A of Chapter 105 of the General Statutes.

Sec. 1.3. Article 3A of Chapter 105 of the General Statutes, as enacted by this act, reads as rewritten:

"ARTICLE 3A.

"TAX INCENTIVES FOR NEW AND EXPANDING BUSINESSES.

"§ 105-129.2. Definitions.

The following definitions apply in this Article:

(1) Cost. – Defined in section 179 of the Code.

(2) Data processing. – Defined in the Standard Industrial Classification Manual issued by the United States Bureau of the Census.

(3) Distress tier. – The classification assigned to an area pursuant to G.S. 105-129.3.

(4) 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. A full-time employee is an employee who holds a full-time job.

(5) Machinery and equipment. – Engines, machinery, tools, and implements used or designed to be used in manufacturing or processing, warehousing and distribution, or data processing. The term does not include real property as defined in G.S. 105-273 or rolling stock as defined in G.S. 105-333.

(6) Manufacturing and processing. – Defined in the Standard Industrial Classification Manual issued by the United States Bureau of the Census.

(7) New machinery and equipment. – Machinery and equipment the first use of which in this State occurs after its purchase by the taxpayer and which is capitalized by the taxpayer for tax purposes under the Code.

(8) Purchase. – Defined in section 179 of the Code.

(9) Warehousing and distribution. – Defined in the Standard Industrial Classification Manual issued by the United States Bureau of the Census.

"§ 105-129.3. Distress tier designation.

(a) Tiers Defined. – A distress tier one area is a county whose distress factor is one of the 10 highest in the State. A distress tier two area is a county whose distress factor is one of the next 15 highest in the State. A distress tier three area is a county whose distress factor is one of the next 25 highest in the State. A distress tier four area is a county whose distress factor is one of the next 25 highest in the State. A distress tier five area is any area that is not in a lower-numbered distress tier.

(b) Annual Designation. – Each year, on or before December 31, the Secretary of Commerce shall assign to each county in the State a distress factor that is the sum of the following:

(1) The county's rank in a ranking of counties by rate of unemployment from lowest to highest.

(2) The county's rank in a ranking of counties by per capita income from highest to lowest.

(3) The county's rank in a ranking of counties by percentage growth in population from highest to lowest.

The Secretary of Commerce shall then rank all the counties within the State according to their distress factor from highest to lowest, identify all the areas of the State by distress tier, and provide this information to the Secretary of Revenue. A distress tier designation is effective only for the calendar year following the designation.

In measuring rates of unemployment and per capita income, the Secretary shall use the latest available data published by a State or federal agency generally recognized as having expertise concerning the data. In measuring population growth, the Secretary shall use the most recent estimates of population certified by the State Planning Officer.

"§ 105-129.4. Eligibility; forfeiture.

(a) Type of Business. – A taxpayer is eligible for a credit allowed by this Article if the taxpayer engages in manufacturing or processing, warehousing or distributing, or data processing, and the jobs with respect to which a credit is claimed are created in that business, the machinery and equipment with respect to which a credit is claimed are used in that business, and the research and development for which a credit is claimed are carried out as part of that business.

(b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs or the credit for worker training if the jobs for which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the credit for investing in machinery and equipment or the credit for research and development if the jobs at the location with respect to which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. Jobs meet the wage standard if they pay an average weekly wage that is at least ten percent (10%) above the average weekly wage paid in the county in which the jobs will be located. In calculating the average weekly wage of jobs, positions that pay a wage or salary at a rate that exceeds one hundred thousand dollars ($100,000) a year shall be excluded. For the purpose of this subsection, the average wage in a county is the average wage for all insured industries in the county as computed by the Employment Security Commission for the most recent period for which data are available.

(c) Worker Training. – A taxpayer is eligible for the tax credit for worker training only for training workers who occupy jobs for which the taxpayer is eligible to claim an installment of the credit for creating jobs or which are full-time positions at a location with respect to which the taxpayer is eligible to claim an installment of the credit for investing in machinery and equipment for the taxable year.

The credit for worker training is allowed only with respect to employees in positions not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. § 213(a)(1) and for expenditures for training that would be eligible for expenditure or reimbursement under the Department of Community Colleges' New and Expanding Industry Program, as determined by guidelines adopted by the State Board of Community Colleges. To establish eligibility, the taxpayer must obtain as part of the application process under G.S. 105-129.6 the certification of the Department of Community Colleges that the taxpayer's planned worker training would satisfy the requirements of this paragraph. A taxpayer shall apply to the Department of Community Colleges for this certification. The application must be on a form provided by the Department of Community Colleges, must provide a detailed plan of the worker training to be provided, and must contain any information required by the Department of Community Colleges to determine whether the requirements of this paragraph will be satisfied. If the Department of Community Colleges determines that the planned worker training meets the requirements of this paragraph, the Department of Community Colleges shall issue a certificate describing the location with respect to which the credit is claimed and stating that the planned worker training meets the requirements of this paragraph. The State Board of Community Colleges may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out its responsibilities under this paragraph.

(d) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. A taxpayer who forfeits a credit under this Article is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), 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 who fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for creating jobs or the credit for investing in machinery and equipment, the taxpayer also forfeits any credit for worker training claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the location with respect to which the credit for investing in machinery and equipment was claimed.

(e) Change in Ownership of Business. – The sale, merger, acquisition, or bankruptcy of a business, or any other transaction by which an existing business reformulates itself as another business, does not create new eligibility in a succeeding business with respect to credits for which the predecessor was not eligible under this Article. A successor business may, however, take any installment of or carried-over portion of a credit that its predecessor could have taken if it had a tax liability.

"**§ 105-129.5. Tax election; cap.**

(a) Tax Election. – The credits provided in this Article are allowed against the franchise tax levied in Article 3 of this Chapter and the income taxes levied in Article 4 of this Chapter. The taxpayer shall elect the tax against which a credit will be claimed when filing the application for the credit. This election is binding. Any carryforwards of the credit must be claimed against the same tax elected in the application.

(b) Cap. – The credits allowed under this Article may not exceed fifty percent (50%) of the tax against which they are claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year. Any unused portion of the credit may be carried forward for the succeeding five years.

"§ 105-129.6. Application; reports.

(a) Application. – To claim the credits allowed by this Article, the taxpayer must provide with the tax return the certification of the Secretary of Commerce that the taxpayer meets all of the eligibility requirements of G.S. 105-129.4 with respect to each credit. A taxpayer shall apply to the Secretary of Commerce for certification of eligibility. The application must be on a form provided by the Secretary of Commerce, must specify the credit and the tax against which it will be claimed, and must contain any information required by the Secretary of Commerce. If the Secretary determines that the taxpayer meets all of the eligibility requirements of G.S. 105-129.4 with respect to a credit, the Secretary shall issue a certificate describing the location with respect to which the credit is claimed, specifying the tax against which the credit will be claimed, outlining the eligibility requirements for the credit, and stating that the taxpayer meets the eligibility requirements. If the Secretary determines that the taxpayer does not meet all of the eligibility requirements of G.S. 105-129.4 with respect to a credit, the Secretary must advise the taxpayer in writing of the eligibility requirements the taxpayer fails to meet. The Secretary of Commerce may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out the Secretary of Commerce's responsibilities under this section.

(b) Reports. – The Department of Commerce shall report to the Department of Revenue and to the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding April 1:

(1) The number of applications for each credit allowed in this Article.
(2) The number and distress tier area of new jobs with respect to which credits were applied for.
(3) The cost of new machinery and equipment with respect to which credits were applied for.

"§ 105-129.7. Substantiation.

To claim a credit allowed by this Article, the taxpayer must provide any information required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article shall 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 shall rest upon the taxpayer, and no credit shall be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

"§ 105-129.8. Credit for creating ~~jobs in severely distressed county.~~ jobs.

(a) Credit. – A ~~corporation that (i) for at least 40 weeks during the year has at least nine employees and (ii) is located, for part or all of its taxable year, in a severely distressed county~~ taxpayer that meets the eligibility requirements set out in G.S. 105-129.4, has five or more employees for at least 40 weeks during the taxable year, ~~may qualify for a credit against the tax imposed by this Division by creating new full-time jobs with the corporation in the severely distressed county during that year. A corporation~~ and ~~that~~ hires an additional full-time employee during that year to fill a position located in ~~a severely distressed county~~ this State is allowed a credit ~~of two thousand eight hundred dollars ($2,800) for the additional employee.~~ for creating a new full-time job. The amount of the credit for each new full-time job created is set out in the table below and is based on the distress tier of the area in which the position is located:

Area Distress Tier	Amount of Credit
Tier One	$20,000
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	300

A position is located in ~~a county~~ an area if ~~(i) at least~~ more than fifty percent (50%) of the employee's duties are performed in the ~~county, or (ii) the employee is a resident of the county.~~ area. The credit may not be taken in the ~~income~~ taxable year in which the additional employee is hired. Instead, the credit shall be taken in equal installments over the four years following the ~~income~~ taxable year in which the additional employee was hired and shall be conditioned on the continued employment by the ~~corporation~~ taxpayer of the number of full-time employees the ~~corporation~~ taxpayer had upon hiring the employee that caused the ~~corporation~~ taxpayer to qualify for the credit. ~~If,~~

If, in one of the four years in which the installment of a credit accrues, the number of the ~~corporation's~~ taxpayer's full-time employees falls below the number of full-time employees the ~~company~~ taxpayer had in the year in which the ~~corporation~~ taxpayer qualified for the ~~credit or the position filled by the employee is moved to another county,~~ credit, the credit expires and the ~~corporation~~ taxpayer may not take any remaining installment of the credit. The ~~corporation~~ taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under ~~subsection (e) of this section.~~ G.S. 105-129.5.

Jobs transferred from one area in the State to another area in the State shall not be considered new jobs for purposes of this section. If, in one of the four years in which the installment of a credit accrues, the position filled by the employee is moved to an area in a higher-numbered distress tier, the remaining installments of the credit shall be calculated as if the position had been created initially in the area to which it was moved.

~~For the purposes of this section, a full-time job is 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. A full-time employee is an employee who holds a full-time job.~~

(b) Repealed by Session Laws 1989, c. 111, s. 1.

~~(b1) Eligibility. – A corporation is eligible for the tax credit allowed by this section only if it obtained a credit under this section for taxable year 1988 or the Department of Commerce determines that it engages in the manufacturing of goods, or that it engages in an industrial activity such as the processing of foods, raw materials, chemicals and process agents, goods in process, or finished products.~~

~~(c) County Designation. – A severely distressed county is a county designated as severely distressed by the Secretary of Commerce. Each year, on or before December 31, the Secretary of Commerce shall designate which counties are considered severely distressed, and shall provide that information to the Secretary of Revenue. A county is considered severely distressed if its distress factor is one of the fifty highest in the State.~~

~~The Secretary shall assign to each county in the State a distress factor that is the sum of the following:~~

~~(1) The county's rank in a ranking of counties by rate of unemployment from lowest to highest.~~

~~(2) The county's rank in a ranking of counties by per capita income from highest to lowest.~~

~~(3) The county's rank in a ranking of counties by percentage growth in population from lowest to highest.~~

~~In measuring rates of unemployment and per capita income, the Secretary shall use the latest available data published by a State or federal agency generally recognized as having expertise concerning the data. In measuring population growth, the Secretary shall use the most recent estimates of population certified by the State Planning Officer. A designation as a severely distressed county is effective only for the calendar year following the designation.~~

(d) Planned Expansion. – A ~~corporation that, during the year in which a county is designated as a severely distressed county,~~ taxpayer that signs a letter of commitment with the Department of Commerce to create at least twenty new full-time jobs in ~~that distressed county~~ a specific area within two years of the date the letter is signed qualifies for the credit in the amount allowed by this section based on the area's distress tier for that year even though the employees are not hired that year. The credit shall be available in the ~~income~~ taxable year after at least twenty employees have been hired if ~~such~~ the hirings are within the two-year commitment period. The conditions outlined in subsection (a) apply to a credit taken under this subsection except that if the ~~county is no longer designated a severely distressed county~~ area is redesignated to a higher-numbered distress tier after the year the letter of commitment was signed, the credit is ~~still available.~~ allowed based on the area's distress tier for the year the letter was signed. If the ~~corporation~~ taxpayer does not hire the employees within the two-year period, the ~~corporation~~ taxpayer does not qualify for the credit. However, if the ~~corporation~~ taxpayer qualifies for a credit under subsection (a) in the year any new employees are hired, ~~it~~ the taxpayer may take the credit under that subsection.

~~(e) Limitations. – The sale, merger, acquisition, or bankruptcy of a business, or any other transaction by which an existing business reformulates itself as another business, does not create new eligibility in a succeeding business with respect to jobs for~~

~~which the predecessor was not eligible under this section. A successor corporation may, however, take any installment of or carried-over portion of a credit that its predecessor could have taken if it had taxable income.~~

~~Jobs transferred from one county in the State to another county in the State shall not be considered new jobs for purposes of this section. A credit taken under this section may not exceed fifty percent (50%) of the tax imposed by this Division for the taxable year, reduced by the sum of all other credits allowed under this Division, 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.~~

~~(f) Substantiation. Every corporation claiming the credit provided in subsection (a) shall maintain and make available for inspection by the Secretary of Revenue or his agent such records as may be necessary to determine and verify the amount of the credit to which it is entitled. The burden of proving eligibility for the credit and the amount of the credit shall rest upon the corporation, and no credit shall be allowed to a corporation that fails to maintain adequate records or to make them available for inspection.~~

"**§ 105-129.9. Credit for investing in machinery and equipment.**

(a) Credit. – A taxpayer that has purchased new machinery and equipment and places it in service in this State during the taxable year is allowed a credit equal to a percentage of the excess of the eligible investment amount over the applicable threshold. If the new machinery and equipment are placed in service in a distress tier one area, the percentage rate is ten percent (10%). If the new machinery and equipment are placed in service in another area, the percentage rate is seven percent (7%). The credit may not be taken for the taxable year in which the equipment is placed in service but shall be taken in equal installments over the seven years following the taxable year in which the equipment is placed in service.

(b) Eligible Investment Amount. – The eligible investment amount is the lesser of (i) the cost of the machinery and equipment and (ii) the amount by which the cost of all of the taxpayer's machinery and equipment that is in service in this State on the last day of the taxable year exceeds the cost of all of the taxpayer's machinery and equipment that was in service in this State on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer had the most machinery and equipment in service in this State.

(c) Threshold. – The applicable threshold is the appropriate amount set out in the following table based on the distress tier of the area where the new machinery and equipment are placed in service during the taxable year. If the taxpayer places new machinery and equipment in service in more than one area during the taxable year, the threshold applies separately to the new machinery and equipment placed in service in each area.

Area Distress Tier	Threshold
Tier One	$ -0-
Tier Two	100,000
Tier Three	200,000
Tier Four	500,000

Tier Five 1,000,000

(d) Expiration. – If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are sold or moved out of State, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are moved to an area in a higher-numbered distress tier, the remaining installments of the credit are allowed only to the extent they would have been allowed if the machinery and equipment had been placed in service initially in the area to which they were moved.

"§ 105-129.10. Credit for research and development.

A taxpayer who claims for the taxable year a federal income tax credit under section 41 of the Code for increasing research activities is allowed a credit equal to five percent (5%) of the State's apportioned share of the taxpayer's expenditures for increasing research activities. The State's apportioned share of a taxpayer's expenditures for increasing research activities is the excess of the taxpayer's qualified research expenses for the taxable year over the base amount, as determined under section 41 of the Code, multiplied by a percentage equal to the ratio of the taxpayer's qualified research expenses in this State for the taxable year to the taxpayer's total qualified research expenses for the taxable year. As used in this section, the terms 'qualified research expenses' and 'base amount' have the meaning provided in section 41 of the Code.

"§ 105-129.11. Credit for worker training.

(a) Credit. – A taxpayer that provides worker training for five or more of its eligible employees during the taxable year is allowed a credit equal to fifty percent (50%) of its eligible expenditures for the training. For positions located in a distress tier one area, the credit may not exceed one thousand dollars ($1,000) per employee trained during the taxable year. For other positions, the credit may not exceed five hundred dollars ($500.00) per employee trained during the taxable year. A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area.

(b) Eligibility. – The eligibility of a taxpayer's expenditures and employees is determined as provided in G.S. 105-129.4."

Sec. 1.4. G.S. 105-151.17 is recodified as G.S. 105-129.8. G.S. 105-129.8, as rewritten by this act, incorporates both G.S. 105-130.40 and G.S. 105-151.17.

Sec. 1.5. G.S. 143B-437A reads as rewritten:

"§ 143B-437A. Industrial Development Fund.

(a) Creation and Purpose of Fund. – There is created in the Department of Commerce the Industrial Development Fund to provide funds to assist the local government units of the most economically ~~depressed~~ distressed counties in the State in creating jobs in ~~qualified~~ certain industries. ~~As used in this section, the term 'qualified industry' means the manufacturing of goods or the processing of foods, raw materials, chemicals~~

~~and process agents, goods in process, or finished products.~~ The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the ~~following:~~ following provisions, which shall apply to each grant from the fund:

(1) The funds shall be used for (i) installation of or purchases of equipment for ~~qualified industries,~~ manufacturing or processing, (ii) structural repairs, improvements, or renovations of existing buildings to be used for expansion of ~~qualified industries,~~ manufacturing or processing, or (iii) construction of or improvements to new or existing water, sewer, gas, or electrical utility distribution lines or equipment for existing or new or proposed industrial buildings to be used for ~~qualified industrial operations, or (iv) in the case of counties designated as severely distressed counties under G.S. 105-130.40(c) or G.S. 105-151.17(c) or units of local government within those counties, construction of or improvement to new or existing water, sewer, gas, or electrical utility distribution lines or equipment to serve new or proposed industrial buildings to be used for qualified industrial operations.~~ manufacturing or processing operations. To be eligible for funding, the water, sewer, gas, or electrical utility lines or facilities shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the specific ~~qualified industrial~~ manufacturing or processing activity.

(1a) The funds shall be used for projects located in economically distressed counties except that ~~However,~~ the Secretary of Commerce may use up to one hundred thousand dollars ($100,000) to provide emergency economic development assistance in any county ~~which~~ that is documented to be experiencing a major economic dislocation.

(2) The funds shall be used by the city and county governments for projects that will directly result in the creation of new jobs. The funds shall be expended at a rate of ~~two thousand four hundred dollars ($2,400)~~ four thousand dollars ($4,000) per new job created up to a maximum of ~~two hundred fifty thousand dollars ($250,000)~~ four hundred thousand dollars ($400,000) per project.

(3) There shall be no local match requirement if the project is located in a distress tier one area as defined in G.S. 105-129.3.

(a1) Definitions. – The following definitions apply in this section:

(1) Economically distressed county. – A county designated as a distress tier one, two, or three area pursuant to G.S. 105-129.3.

(2) Major economic dislocation. – The actual or imminent loss of 500 or more manufacturing jobs in the county or of a number of manufacturing jobs equal to at least ten percent (10%) of the existing manufacturing workforce in the county.

(3) Manufacturing and processing. – Defined in the Standard Industrial Classification Manual issued by the United States Bureau of the Census.

~~(b) Each year, on or before December 31, the Secretary of Commerce shall designate the most economically distressed counties in the State; this designation shall remain effective for the following calendar year. The Secretary of Commerce shall determine which counties are the most economically distressed counties in the State based on (i) rate of unemployment, (ii) per capita income, and (iii) relative population and work force growth or lack of growth, as determined by the Secretary of Commerce.~~

<u>(b1) Utility Account. – There is created within the Industrial Development Fund a special account to be known as the Utility Account to provide funds to assist the local government units of distress tier one areas, as defined in G.S. 105-129.3, in creating jobs in manufacturing and processing, warehousing and distribution, and data processing, as defined in the Standard Industrial Classification Manual issued by the United States Bureau of the Census. The Department of Commerce shall adopt rules providing for the administration of the program. Except as otherwise provided in this subsection, those rules shall be consistent with the rules adopted with respect to the Industrial Development Fund. The rules shall provide that the funds in the Utility Account may be used only for construction of or improvements to new or existing water, sewer, gas, or electrical utility distribution lines or equipment for existing or new or proposed industrial buildings to be used for industrial operations in manufacturing or processing, warehousing or distribution, or data processing. To be eligible for funding, the water, sewer, gas, or electrical utility lines or facilities shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the specific industrial activity. There shall be no maximum funding amount per new job to be created or per project.</u>

(c) <u>Reports. –</u> The Department of Commerce shall report annually to the General Assembly concerning the applications made to the fund and the payments made from the fund and the impact of the payments on job creation in the State. The Department of Commerce shall also report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of the moneys in the fund, including information regarding to whom payments were made, in what amounts, and for what purposes.

~~(d) As used in this section, 'major economic dislocation' means the actual or imminent loss of:~~

~~(1) 500 or more manufacturing jobs in the county; or~~

~~(2) A number of manufacturing jobs which is equal to or more than ten percent (10%) of the existing manufacturing workforce in the county~~."

Sec. 1.6. Part 2 of Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**<u>§ 143B-437D. Economic development block grants.</u>**

<u>The Department of Commerce shall adopt guidelines for the awarding of Community Development Block Grants for economic development that will ensure that no local match is required for grants awarded for projects located in distress tier one areas as defined in G.S. 105-129.3 and, to the extent practicable, that priority consideration for grants is given to projects located in distress tier one areas as defined in G.S. 105-129.3.</u>"

Sec. 1.7. G.S. 105-241.1(e), as amended by Chapter 646 of the 1995 Session Laws, reads as rewritten:

"(e) Statute of Limitations. – There is no statute of limitations and the Secretary may propose an assessment of tax due from a taxpayer at any time if (i) the taxpayer did not file a proper application for a license or did not file a return, (ii) the taxpayer filed a false or fraudulent application or return, or (iii) the taxpayer attempted in any manner to fraudulently evade or defeat the tax.

If a taxpayer files a return reflecting a federal determination as provided in G.S. 105-29, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, the Secretary must propose an assessment of any tax due within one year after the return is filed or within three years of when the original return was filed or due to be filed, whichever is later. If there is a federal determination and the taxpayer does not file the required return, the Secretary must propose an assessment of any tax due within three years after the date the Secretary received the final report of the federal determination. If a taxpayer forfeits a tax credit pursuant to G.S. ~~105-163.014,~~ 105-163.014 or Article 3A of this Chapter, the Secretary must assess any tax due as a result of the forfeiture within three years after the date of the forfeiture. If a taxpayer elects under section 1033(a)(2)(A) of the Code not to recognize gain from involuntary conversion of property into money, the Secretary must assess any tax due as a result of the conversion or election within the applicable period provided under section 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code. If a taxpayer sells at a gain the taxpayer's principal residence, the Secretary must assess any tax due as a result of the sale within the period provided under section 1034(j) of the Code.

In all other cases, the Secretary must propose an assessment of any tax due from a taxpayer within three years after the date the taxpayer filed an application for a license or a return or the date the application or return was required by law to be filed, whichever is later.

If the Secretary proposes an assessment of tax within the time provided in this section, the final assessment of the tax is timely.

A taxpayer may make a written waiver of any of the limitations of time set out in this subsection, for either a definite or an indefinite time. If the Secretary accepts the taxpayer's waiver, the Secretary may propose an assessment at any time within the time extended by the waiver."

Sec. 1.8. G.S. 153A-376(f) reads as rewritten:

"(f) All program income from Economic Development Grants from the Small Cities Community Development Block Grant Program may be retained by recipient ~~'severely~~ 'economically distressed counties', as ~~designated under G.S. 105-130.40(c),~~ defined in G.S. 143B-437A for the purposes of creating local economic development revolving loan funds. Such program income derived through the use by counties of Small Cities Community Development Block Grant money includes but is not limited to: (i) payment of principal and interest on loans made by the county using Community Development Block Grant Funds; (ii) proceeds from the lease or disposition of real property acquired with Community Development Block Grant Funds; and (iii) any late fees associated with loan or lease payments in (i) and (ii) above. The local economic development revolving loan fund set up by the county shall fund only those activities eligible under Title I of the federal Housing and Community Development Act of 1974, as amended (P.L. 93-383), and shall meet at least one of the three national objectives of the Housing and Community Development Act. Any expiration of G.S. ~~105-130.40(c)~~ 143B-437A or G.S. 105-129.3 shall not affect this subsection as to designations of ~~severely~~ economically distressed counties made prior to its expiration."

Sec. 1.9. G.S. 160A-456(e1) reads as rewritten:

"(e1) All program income from Economic Development Grants from the Small Cities Community Development Block Grant Program may be retained by recipient cities in ~~'severely~~ 'economically distressed counties', as ~~designated under G.S. 105-130.40(c),~~ defined in G.S. 143B-437A, for the purposes of creating local economic development revolving loan funds. Such program income derived through the use by cities of Small Cities Community Development Block Grant money includes but is not limited to: (i) payment of principal and interest on loans made by the county using Community Development Block Grant Funds; (ii) proceeds from the lease or disposition of real property acquired with Community Development Block Grant Funds; and (iii) any late fees associated with loan or lease payments in (i) and (ii) above. The local economic development revolving loan fund set up by the city shall fund only those activities eligible under Title I of the federal Housing and Community Development Act of 1974, as amended (P.L. 93-383), and shall meet at least one of the three national objectives of the Housing and Community Development Act. Any expiration of G.S. ~~105-130.40(c)~~ 143B-437A or G.S. 105-129.3 shall not affect this subsection as to designations of ~~severely~~ economically distressed counties made prior to its expiration."

Sec. 1.10. Notwithstanding the provisions of G.S. 105-129.10, as enacted by this act, if a taxpayer relocates an employee to this State during 1996, any in-house research expenses the taxpayer incurs with respect to that employee during 1996, either before or after the employee is relocated to this State, are considered in-house research expenses in this State for the purposes of G.S. 105-129.10. Notwithstanding the definition of "Code" in G.S. 105-228.90, if the federal tax credit for increasing research activities that was formerly allowed under section 41 of the Code is reenacted, the credit for research and development allowed in Article 3A of Chapter 105 of the General Statutes, as enacted by this act, becomes effective for the same taxable year for which the reenacted federal credit becomes effective.

PART II. MODIFY BUNDLED TRANSACTION SALES TAX

Sec. 2.1. Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.12B. Bundled transactions.**

(a) Bundled Transaction Defined. – A bundled transaction is a transaction in which all of the following conditions are met:

(1) A seller transfers an item of tangible personal property to a consumer on the condition that the consumer enter into an agreement to purchase

services on an ongoing basis for a minimum period of at least six months.

(2) The agreement requires the consumer to pay a cancellation fee to the service provider if the consumer cancels the contract for services within the minimum period.

(3) For the item transferred, the seller:

a. Does not charge the consumer; or

b. Charges the consumer a price that, after any discount or rebate the seller gives the consumer, is below the cost price the seller paid for the item.

(b) Bundled Transaction Is a Sale; Sales Price. – If a seller transfers an item of tangible personal property as part of a bundled transaction, a sale has occurred, and the sales price of the item is presumed to be the retail price at which the item would sell if no agreement for services were entered into. Part of this price may be paid by the consumer at the time of the transfer; the remainder of the price is considered paid as part of the price to be paid for the services contracted for. Sales tax is due on any part of the price paid by the consumer at the time of the transfer.

(c) No Additional Sales Tax if Services Taxed. – If the services for which the consumer was required to contract are subject to services taxes at a combined rate equal to or greater than the combined State and local general rate of sales and use tax, then no additional sales tax is due on the transfer. However, if the consumer cancels the contract for services before the expiration of the minimum period, sales tax applies to the cancellation fee paid by the consumer.

(d) Additional Sales Tax if Services Not Taxed. – If the services for which the consumer was required to contract are not subject to services taxes at a combined rate equal to or greater than the combined State and local general rate of sales and use tax, then sales tax is due at the time of the transfer on the remainder of the sales price not paid at that time.

(e) Services Taxes Defined. – For the purpose of this section, the term 'services taxes' means any combination of State franchise tax on gross receipts, State sales tax, or local sales tax levied on the sale of or gross receipts from the services.

(f) Determination of Cost Price. – For the purpose of this section, the cost price a seller paid for an item is presumed to be no greater than the price the seller paid for the same model within 12 months before the bundled transaction, as shown on the seller's invoices."

PART III. EXPAND HOMESTEAD EXEMPTION

Sec. 3.1. G.S. 105-277.1 reads as rewritten:

"§ 105-277.1. Property classified for taxation at reduced valuation.

(a) Exclusion. – The following class of property is designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be assessed for taxation in accordance with this section. The first ~~fifteen thousand dollars ($15,000)~~ twenty thousand dollars ($20,000) in appraised value of a permanent residence owned and occupied by a qualifying owner is excluded from taxation. A qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

(1) Is at least 65 years of age or totally and permanently disabled.

(2) Has an income for the preceding calendar year of not more than ~~eleven thousand dollars ($11,000).~~ fifteen thousand dollars ($15,000).

(3) Is a North Carolina resident.

An otherwise qualifying owner does not lose the benefit of this exclusion because of a temporary absence from his or her permanent residence for reasons of health, or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the owner's spouse or other dependent.

(b) Definitions. – When used in this section, the following definitions shall apply:

(1) Code. – The Internal Revenue Code, as defined in G.S. 105-228.90.

(1a) Income. – Adjusted gross income, as defined in section 62 of the Code, plus all other moneys received from every source other than gifts or inheritances received from a spouse, lineal ancestor, or lineal descendant. For married applicants residing with their spouses, the income of both spouses must be included, whether or not the property is in both names.

(1b) Owner. – A person who holds legal or equitable title, whether individually, as a tenant by the entirety, a joint tenant, or a tenant in common, or as the holder of a life estate or an estate for the life of another. A manufactured home jointly owned by husband and wife is considered property held by the entirety.

(2) Repealed by Session Laws 1993, c. 360, s. 1.

(2a) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 982, s. 20.

(3) Permanent residence. – A person's legal residence. It includes the dwelling, the dwelling site, not to exceed one acre, and related improvements. The dwelling may be a single family residence, a unit in a multi-family residential complex, or a manufactured home.

(4) Totally and permanently disabled. – A person is totally and permanently disabled if the person has a physical or mental impairment that substantially precludes him or her from obtaining gainful employment and appears reasonably certain to continue without substantial improvement throughout his or her life.

(c) Application. – An application for the exclusion provided by this section should be filed during the regular listing period, but may be filed and must be accepted at any time up to and through April 15 preceding the tax year for which the exclusion is claimed. When property is owned by two or more persons other than husband and wife and one or more of them qualifies for this exclusion, each owner shall apply separately for his or her proportionate share of the exclusion.

(1) Elderly Applicants. – Persons 65 years of age or older may apply for this exclusion by entering the appropriate information on a form made available by the assessor under G.S. 105-282.1.

(2) Disabled Applicants. – Persons who are totally and permanently disabled may apply for this exclusion by (i) entering the appropriate information on a form made available by the assessor under G.S. 105-282.1 and (ii) furnishing acceptable proof of their disability. The proof shall be in the form of a certificate from a physician licensed to practice medicine in North Carolina or from a governmental agency authorized to determine qualification for disability benefits. After a disabled applicant has qualified for this classification, he or she shall not be required to furnish an additional certificate unless the applicant's disability is reduced to the extent that the applicant could no longer be certified for the taxation at reduced valuation.

(d) Multiple Ownership. – A permanent residence owned and occupied by husband and wife as tenants by the entirety is entitled to the full benefit of this exclusion notwithstanding that only one of them meets the age or disability requirements of this section. When a permanent residence is owned and occupied by two or more persons other than husband and wife and one or more of the owners qualifies for this exclusion, each qualifying owner is entitled to the full amount of the exclusion not to exceed his or her proportionate share of the valuation of the property. No part of an exclusion available to one co-owner may be claimed by any other co-owner and in no event may the total exclusion allowed for a permanent residence exceed ~~fifteen thousand dollars ($15,000).~~ <u>the exclusion amount provided in this section.</u>"

Sec. 3.2. G.S. 105-309(f) reads as rewritten:

"(f) The following information shall appear on each abstract or on an information sheet distributed with the abstract. The abstract or sheet must include the address and telephone number of the assessor below the notice required by this subsection. The notice shall read as follows:

'PROPERTY TAX RELIEF FOR ELDERLY AND PERMANENTLY DISABLED PERSONS.

North Carolina excludes from property taxes the first ~~fifteen thousand dollars ($15,000)~~ <u>twenty thousand dollars ($20,000)</u> in appraised value of a permanent residence owned and occupied by North Carolina residents aged 65 or older or totally and permanently disabled whose income does not exceed ~~eleven thousand dollars ($11,000).~~ <u>fifteen thousand dollars ($15,000).</u> Income means the owner's adjusted gross income as determined for federal income tax purposes, plus all moneys received other than gifts or inheritances received from a spouse, lineal ancestor or lineal descendant.

If you received this exclusion in (assessor insert previous year), you do not need to apply again unless you have changed your permanent residence. If you received the exclusion in (assessor insert previous year) and your income in (assessor insert previous year) was above ~~eleven thousand dollars ($11,000),~~ fifteen thousand dollars ($15,000), you must notify the assessor. If you received the exclusion in (assessor insert previous year) because you were totally and permanently disabled and you are no longer totally and permanently disabled, you must notify the assessor. If the person receiving the exclusion in (assessor insert previous year) has died, the person required by law to list the property must notify the assessor. Failure to make any of the notices required by this paragraph before April 15 will result in penalties and interest.

If you did not receive the exclusion in (assessor insert previous year) but are now eligible, you may obtain a copy of an application from the assessor. It must be filed by April 15.'"

PART IV. MODIFY FRANCHISE TAX

Sec. 4.1. G.S. 105-122(d) reads as rewritten:

"(d) After determining the proportion of its total capital stock, surplus and undivided profits as set out in subsection (c) of this section, which amount so determined shall in no case be less than fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State of each such corporation plus the total appraised value of intangible property returned for taxation of intangible personal property as herein specified nor less than its total actual investment in tangible property in this State, every corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the report and statement are due, a franchise or privilege tax, which is hereby levied at the rate of one dollar and fifty cents ($1.50) per one thousand dollars ($1,000) of the total amount of capital stock, surplus and undivided profits as herein provided. The tax imposed in this section shall in no case be less than thirty-five dollars ($35.00) and shall be for the privilege of carrying on, doing business, and/or the continuance of articles of incorporation or domestication of each such corporation in this State. Appraised value of tangible property including real estate shall be the ad valorem valuation for the calendar year next preceding the due date of the franchise tax return. Appraised value of intangible property shall be the total gross valuation required to be reported for intangible tax purposes on April 15 coincident with or next preceding the due date of the franchise tax return. The term 'total actual investment in tangible property' as used in this section shall be construed to mean the total original purchase price or consideration to the reporting taxpayer of its tangible properties, including real estate, in this State plus additions and improvements thereto less reserve for depreciation as permitted for income tax purposes, and also less any indebtedness incurred and existing by virtue of the purchase of any real estate and any permanent improvements made thereon. In computing 'total actual investment in tangible personal property' there shall also be deducted reserves for the entire cost of any air-cleaning device or sewage or waste treatment plant, including waste lagoons, and pollution abatement equipment purchased or constructed and installed which reduces the amount of air or water pollution resulting from the emission of air contaminants or the discharge of sewage and industrial wastes or other polluting materials or substances into the outdoor atmosphere or into streams, lakes, or rivers, upon condition that the corporation claiming such deduction shall furnish to the Secretary a certificate from the Department of Environment, Health, and Natural Resources or from a local air pollution control program for air-cleaning devices located in an area where the Environmental Management Commission has certified a local air pollution control program pursuant to G.S. 143-215.112 certifying that said Department or local air pollution control program has found as a fact that the air-cleaning device, waste treatment plant or pollution abatement equipment purchased or constructed and installed as above described has actually been constructed and installed and that such device, plant or equipment complies with the requirements of the Environmental Management Commission or local air pollution control program with respect to such devices, plants or equipment, that such device, plant or equipment is being effectively operated in accordance with the terms and conditions set forth in the permit, certificate of approval, or other document of approval issued by the Environmental Management Commission or local air pollution control program and that the primary purpose thereof is to reduce air or water pollution resulting from the emission of air contaminants or the discharge of sewage and waste and not merely incidental to other purposes and functions. The cost of constructing facilities of any private or public utility built for the purpose of providing sewer service to residential and outlying areas shall be treated as deductible for the purposes of this section; the deductible liability allowed by this section shall apply only with respect to such pollution abatement plants or equipment constructed or installed on or after January 1, 1955.

In computing 'total actual investment in tangible property,' one-fourth of the taxpayer's investment in inventories as defined in G.S. 105-273(8a) shall be deductible.

In determining the total tax payable by any corporation under this section, there shall be allowed as a credit on such tax the amount of the credit authorized by Division V of Article 4 of this Chapter."

PART V. EFFECTIVE DATES

Sec. 5.1. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before its amendment or repeal; nor does it affect the right to any refund or credit of a tax that would otherwise have been available under the amended or repealed statute before its amendment or repeal.

Sec. 5.2. This act becomes effective as follows:

(1) Quality jobs and business expansion tax credits. – Sections 1.5, 1.6, and 1.8 through 1.9 of Part I of this act become effective August 1, 1996. G.S. 105-129.11, as enacted by Part I of this act, becomes effective for taxable years beginning on or after January 1, 1997, and applies to training expenditures made on or after March 1, 1997. The remainder of Part I of this act is effective for taxable years beginning on or after January 1, 1996, and applies to jobs created on or after August 1, 1996, and new machinery and equipment placed in service on or after August 1, 1996. Article 3A of Chapter 105 of the General Statutes is repealed

effective for applications for credits filed under G.S. 105-129.6 on or after January 1, 2002.

(2) Modify bundled transaction sales tax. – Part II of this act becomes effective on the earliest date practicable. The "earliest date practicable" is considered to be the first day of the third month following the ratification of this act. The Part applies to sales made on or after the effective date.

(3) Expand homestead exemption. – Part III of this act is effective for taxes imposed for taxable years beginning on or after July 1, 1997.

(4) Modify franchise tax. – Part IV of this act is effective for income years beginning on or after January 1, 1997.

(5) Remainder. – The remainder of this act is effective upon ratification.