GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

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SENATE BILL 1397*

Short Title:	NC Economic Recovery and Competitiveness Act.	(Public)
Sponsors:	Senator Hoyle.	
Referred to:	Finance.	

June 13, 2002

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH TIERED JOB CREATION THRESHOLDS FOR THE CREDIT FOR CREATING JOBS; TO RAISE THE INVESTMENT THRESHOLD FOR THE CREDIT FOR INVESTING IN MACHINERY AND EQUIPMENT; TO ESTABLISH TIER RATES FOR THE CREDIT FOR INVESTING IN MACHINERY AND EQUIPMENT; TO MODIFY THE WAGE STANDARD FOR THE CREDIT FOR WORKER TRAINING; TO MODIFY THE WAGE STANDARD FOR TIER ONE AND TWO COUNTIES; TO PROVIDE RECURRING FUNDS FOR THE INDUSTRIAL RECRUITMENT COMPETITIVE FUND; TO ENACT A JOB DEVELOPMENT INVESTMENT GRANT PROGRAM TO IMPROVE NORTH CAROLINA'S COMPETITIVENESS IN ECONOMIC DEVELOPMENT AND THE RECRUITMENT AND RETENTION OF NEW BUSINESS AND INDUSTRIAL PROJECTS AND EXPANSIONS; AND TO EXTEND THE TAX CREDIT FOR QUALIFIED BUSINESS INVESTMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.8 reads as rewritten:

"**§ 105-129.8. Credit for creating jobs.**

(a) Credit. – A taxpayer that meets the eligibility requirements set out in G.S. 105-129.4, has five or more full-time employees, and hires an additional full-time employee in excess of the applicable threshold during the taxable year to fill a position located in this State is allowed a credit for creating a new full-time ~~job.~~job for each new full-time job created in excess of the applicable threshold. The amount of the credit for each new full-time job created in excess of the applicable threshold is set out in the table below and is based on the enterprise tier of the area in which the position is located. In addition, if the position is located in a development zone, the amount of the credit is increased by four thousand dollars ($4,000) per job.

Area Enterprise Tier	Amount of Credit
Tier One	$12,500

Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

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

If, in one of the four years in which the installment of a credit accrues, the number of the taxpayer's full-time employees falls below the number of full-time employees the taxpayer had in the year in which the taxpayer qualified for the credit, 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.

Jobs transferred from one area in the State to another area in the State are not 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- or lower-numbered enterprise tier, or is moved from a development zone to an area that is not a development zone, the remaining installments of the credit must be calculated as if the position had been created initially in the area to which it was moved.

(a1) Threshold. – The applicable threshold is the appropriate number of new jobs created set out in the following table based on the enterprise tier where the new jobs are created. If the taxpayer creates new jobs at more than one establishment in an enterprise tier during the taxable year, the threshold applies separately to the eligible jobs created at each establishment.

Area Enterprise Tier	Threshold
Tier One	0
Tier Two	5
Tier Three	10
Tier Four	15
Tier Five	25

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

(b1), (c) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.

(d) Planned Expansion. – A taxpayer that signs a letter of commitment with the Department of Commerce to create at least twenty new full-time jobs in excess of the applicable threshold in 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 enterprise tier and development zone designation for that year even though the employees are not hired that year. The credit shall be available in the taxable year after at least twenty employees in excess of the applicable threshold have been hired if 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 area is redesignated to a higher-numbered enterprise tier or loses its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not hire the employees within the two-year period, the taxpayer does not qualify for the credit. However, if the taxpayer qualifies for a credit under subsection (a) in the year any new employees are hired, the taxpayer may take the credit under that subsection.

(e), (f) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3."

SECTION 2. G.S. 105-129.9(a) and (c) read as rewritten:

"(a) General Credit. – If a taxpayer that has purchased or leased eligible machinery and equipment places them in service in this State during the taxable year, the taxpayer is allowed a credit equal to ~~seven percent (7%)~~ the applicable percent of the excess of the eligible investment amount over the applicable threshold. Machinery and equipment are eligible if they are capitalized by the taxpayer for tax purposes under the Code and not leased to another party. In addition, in the case of a large investment, machinery and equipment that are not capitalized by the taxpayer are eligible if the taxpayer leases them from another party. The credit may not be taken for the taxable year in which the machinery and equipment are placed in service but shall be taken in equal installments over the seven years following the taxable year in which they are placed in service. The applicable percent is as follows:

Area Enterprise Tier	Applicable Percent
Tier One	7%
Tier Two	7%
Tier Three	6%
Tier Four	5%
Tier Five	4%

…

(c) Threshold. – The applicable threshold is the appropriate amount set out in the following table based on the enterprise tier where the eligible machinery and equipment are placed in service during the taxable year. If the taxpayer places eligible machinery and equipment in service at more than one establishment in an enterprise tier during the taxable year, the threshold applies separately to the eligible machinery and equipment placed in service at each establishment. If the taxpayer places eligible machinery and equipment in service at an establishment over the course of a two-year period, the applicable threshold for the second taxable year is reduced by the eligible investment amount for the previous taxable year.

Area Enterprise Tier	Threshold
Tier One	$ -0-
Tier Two	100,000
Tier Three	200,000
Tier Four	~~500,000~~1,000,000
Tier Five	~~1,000,000~~2,000,000"

SECTION 3. G.S. 105-129.4(b) reads as rewritten:

"(b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs ~~or the credit for worker training~~ in an enterprise tier three, four, or five area if, for the calendar year the jobs are ~~created or the worker training is provided,~~created, the average wage of the jobs for which the credit is claimed meets the wage standard and the average wage of all jobs at the location with respect to which the credit is claimed meets the wage standard. No credit is allowed for jobs not included in the wage calculation. A taxpayer is eligible for the credit for investing in machinery and equipment, the credit for research and development, or the credit for investing in real property for a central office or aircraft ~~facility, or the credit for substantial investment in other property~~facility in a tier three, four, or five area if, for the calendar year the taxpayer engages in the activity that qualifies for the credit, the average wage of all jobs at the location with respect to which the credit is claimed meets the wage standard. In making the wage calculation, the taxpayer must include any positions that were filled for at least 1,600 hours during the calendar year the taxpayer engages in the activity that qualifies for the credit even if those positions are not filled at the time the taxpayer claims the credit.

Jobs meet the wage standard if they pay an average weekly wage that is at least equal to ~~the applicable percentage times~~one hundred ten percent (110%) of the applicable average weekly wage for the county in which the jobs will be located, as computed by the Secretary of Commerce from data compiled by the Employment Security Commission for the most recent period for which data are available. ~~The applicable percentage for jobs located in an enterprise tier one area is one hundred percent (100%). The applicable percentage for all other jobs is one hundred ten percent (110%).~~ The applicable average weekly wage is the lowest of the following: (i) the average wage for all insured private employers in the county, (ii) the average wage for all insured private employers in the State, and (iii) the average wage for all insured private employers in the county multiplied by the county income/wage adjustment factor. The county income/wage adjustment factor is the county income/wage ratio divided by the State income/wage ratio. The county income/wage ratio is average per capita income in the county divided by the annualized average wage for all insured private employers in the county. The State income/wage ratio is the average per capita income in the State divided by the annualized average wage for all insured private employers in the State. The Department of Commerce must annually publish the wage standard for each county."

SECTION 4. There is appropriated from the General Fund to the Department of Commerce the sum of fifteen million dollars ($15,000,000) for the 2002-2003 fiscal year for the Industrial Recruitment Competitive Fund. It is the intent of the General Assembly that this be a recurring appropriation.

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

"Article 3E

"Job Development Investment Grant Program."

SECTION 6.(a) Section 7 of Chapter 443 of the 1993 Session Laws, as amended by Section 29A.15 of S.L. 1998-212, is repealed.

SECTION 6.(b) Section 10 of Chapter 443 of the 1993 Session Laws, as amended by Section 29A.15 of S.L. 1998-212, reads as rewritten:

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

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

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

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

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

SECTION 6.(c) Part 5 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**<u>§ 105-163.015. Sunset.</u>**

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

SECTION 7. Sections 1 and 2 of this act are effective for business activities that occur on or after January 1, 2003. Section 3 of this act is effective for taxable years beginning on or after January 1, 2003. The remainder of this act is effective July 1, 2002.