

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1275*

Short Title: Quality Jobs & Business Expansion.

(Public)

Sponsors: Senators Kerr; Gulley, Hoyle, Martin of Pitt, Jordan, Martin of Guilford, Warren, Albertson, Rand, Forrester, Conder, Parnell, Soles, Blackmon, Odom, Plexico, Hobbs, McDaniel, Ballantine, Allran, and Plyler.

Referred to: Finance.

May 23, 1996

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE INCENTIVES FOR HIGH QUALITY JOBS AND BUSINESS
3 EXPANSION IN NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 105 of the General Statutes is amended by adding a new
6 Article 3A entitled "Tax Incentives for New and Expanding Businesses."

7 Sec. 2. G.S. 105-130.40 is recodified as G.S. 105-129.8 in Article 3A of
8 Chapter 105 of the General Statutes.

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

11 "ARTICLE 3A.

12 "TAX INCENTIVES FOR NEW AND EXPANDING BUSINESSES.

13 "§ 105-129.2. Definitions.

14 The following definitions apply in this Article:

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

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

- 1 (3) Distress tier. – The classification assigned to an area pursuant to G.S.
2 105-129.3.
- 3 (4) Full-time job. – A position that requires at least 1,600 hours of work per
4 year and is intended to be held by one employee during the entire year.
5 A full-time employee is an employee who holds a full-time job.
- 6 (5) Machinery and equipment. – Engines, machinery, tools, and implements
7 used or designed to be used in manufacturing or processing,
8 warehousing and distribution, or data processing. The term does not
9 include real property as defined in G.S. 105-273 or rolling stock as
10 defined in G.S. 105-333.
- 11 (6) Manufacturing and processing. – Defined in the Standard Industrial
12 Classification Manual issued by the United States Bureau of the Census.
- 13 (7) New machinery and equipment. – Machinery and equipment the first
14 use of which in this State occurs after its purchase by the taxpayer and
15 which is capitalized on the taxpayer's books in accordance with
16 generally accepted accounting principles, including financial accounting
17 standards issued by the Financial Accounting Standards Board.
- 18 (8) Purchase. – Defined in section 179 of the Code.
- 19 (9) Warehousing and distribution. – Defined in the Standard Industrial
20 Classification Manual issued by the United States Bureau of the Census.

21 **"§ 105-129.3. Distress tier designation.**

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

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

- 31 (1) The county's rank in a ranking of counties by rate of unemployment from
32 lowest to highest.
- 33 (2) The county's rank in a ranking of counties by per capita income from
34 highest to lowest.
- 35 (3) The county's rank in a ranking of counties by percentage growth in
36 population from highest to lowest.

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

41 In measuring rates of unemployment and per capita income, the Secretary shall use
42 the latest available data published by a State or federal agency generally recognized as

1 having expertise concerning the data. In measuring population growth, the Secretary
2 shall use the most recent estimates of population certified by the State Planning Officer.

3 **"§ 105-129.4. Eligibility; forfeiture.**

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

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

23 (c) Health Insurance. – A taxpayer is eligible for the credit for creating jobs or the
24 credit for worker training if the taxpayer provides health insurance for the positions for
25 which the credit is claimed at the time the taxpayer applies for the credit. A taxpayer is
26 eligible for the credit for investing in machinery and equipment or the credit for research
27 and development if the taxpayer provides health insurance for the full-time positions at
28 the location with respect to which the credit is claimed at the time the taxpayer applies for
29 the credit. For the purpose of this subsection, a taxpayer provides health insurance if it
30 pays at least fifty percent (50%) of the premiums for health care coverage that equals or
31 exceeds the minimum provisions of the basic health care plan of coverage recommended
32 by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

33 Each year that a taxpayer claims an installment or carryforward of a credit allowed
34 under this Article, the taxpayer shall provide with the tax return the taxpayer's
35 certification that the taxpayer continues to provide health insurance for the jobs for which
36 the credit was claimed or the full-time jobs at the location with respect to which the credit
37 was claimed. If the taxpayer ceases to provide health insurance for the jobs during a
38 taxable year, the credit expires and the taxpayer may not take any remaining installment
39 or carryforward of the credit.

40 (d) Worker Training. – A taxpayer is eligible for the tax credit for worker training
41 only for training workers who occupy jobs for which the taxpayer is eligible to claim an
42 installment of the credit for creating jobs or which are full-time positions at a location

1 with respect to which the taxpayer is eligible to claim an installment of the credit for
2 investing in machinery and equipment for the taxable year.

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

23 (e) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the
24 taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. A
25 taxpayer who forfeits a credit under this Article is liable for all past taxes avoided as a
26 result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed
27 from the date the taxes would have been due if the credit had not been allowed. The past
28 taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer who
29 fails to pay the past taxes and interest by the due date is subject to the penalties provided
30 in G.S. 105-236. If a taxpayer forfeits the credit for creating jobs or the credit for
31 investing in machinery and equipment, the taxpayer also forfeits any credit for worker
32 training claimed for the jobs for which the credit for creating jobs was claimed or the jobs
33 at the location with respect to which the credit for investing in machinery and equipment
34 was claimed.

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

41 **§ 105-129.5. Tax election; cap.**

42 (a) Tax Election. – The credits provided in this Article are allowed against the
43 franchise tax levied in Article 3 of this Chapter and the income taxes levied in Article 4

1 of this Chapter. The taxpayer shall elect the tax against which a credit will be claimed
 2 when filing the application for the credit. This election is binding. Any carryforwards of
 3 the credit must be claimed against the same tax elected in the application.

4 (b) Cap. – The credits allowed under this Article may not exceed fifty percent
 5 (50%) of the tax against which they are claimed for the taxable year, reduced by the sum
 6 of all other credits allowed against that tax, except tax payments made by or on behalf of
 7 the taxpayer. This limitation applies to the cumulative amount of credit, including
 8 carryforwards, claimed by the taxpayer under this Article against each tax for the taxable
 9 year. Any unused portion of the credit may be carried forward for the succeeding five
 10 years.

11 **"§ 105-129.6. Application; fee; reports.**

12 (a) Application. – To claim the credits allowed by this Article, the taxpayer must
 13 provide with the tax return the certification of the Secretary of Commerce that the
 14 taxpayer meets all of the eligibility requirements of G.S. 105-129.4 with respect to each
 15 credit. A taxpayer shall apply to the Secretary of Commerce for certification of
 16 eligibility. The application must be on a form provided by the Secretary of Commerce,
 17 must specify the credit and the tax against which it will be claimed, and must contain any
 18 information required by the Secretary of Commerce. If the Secretary determines that the
 19 taxpayer meets all of the eligibility requirements of G.S. 105-129.4 with respect to a
 20 credit, the Secretary shall issue a certificate describing the location with respect to which
 21 the credit is claimed, specifying the tax against which the credit will be claimed, outlining
 22 the eligibility requirements for the credit, and stating that the taxpayer meets the
 23 eligibility requirements. The Secretary of Commerce may adopt rules in accordance with
 24 Chapter 150B of the General Statutes that are needed to carry out the Secretary of
 25 Commerce's responsibilities under this section.

26 (b) Fee. – When filing an application for certification under this section, the
 27 taxpayer must pay the Department of Commerce a fee for each credit the taxpayer intends
 28 to claim, subject to a maximum fee. The amount of the per credit fee and the maximum
 29 fee is provided in the table below based on the distress tier of the location with respect to
 30 which the credits are claimed. If the taxpayer applies for certification for credits that
 31 relate to locations in more than one distress tier area, the fee is based on the highest-
 32 numbered distress tier area.

<u>Area Distress Tier</u>	<u>Per Credit Fee</u>	<u>Maximum</u>
<u>Tier One</u>	<u>\$ 50</u>	<u>\$ 100</u>
<u>Tier Two</u>	<u>100</u>	<u>250</u>
<u>Tier Three</u>	<u>200</u>	<u>500</u>
<u>Tier Four</u>	<u>350</u>	<u>1,000</u>
<u>Tier Five</u>	<u>500</u>	<u>1,500</u>

41 The Secretary of Commerce shall retain one-fourth of the proceeds of the fee imposed
 42 in this section for the costs of administering this section. The Secretary of Commerce
 43 shall credit the remaining proceeds of the fee imposed in this section to the Department

1 of Revenue for the costs of administering and auditing the credits allowed in this Article.
 2 The proceeds of the fee are receipts of the Department to which they are credited.

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

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

11 **"§ 105-129.7. Substantiation.**

12 To claim a credit allowed by this Article, the taxpayer must provide any information
 13 required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article
 14 shall maintain and make available for inspection by the Secretary of Revenue any records
 15 the Secretary considers necessary to determine and verify the amount of the credit to
 16 which the taxpayer is entitled. The burden of proving eligibility for the credit and the
 17 amount of the credit shall rest upon the taxpayer, and no credit shall be allowed to a
 18 taxpayer that fails to maintain adequate records or to make them available for inspection.

19 **"§ 105-129.8. Credit for creating jobs in severely distressed county- jobs.**

20 (a) Credit. – ~~A corporation that (i) for at least 40 weeks during the year has at least~~
 21 ~~nine employees and (ii) is located, for part or all of its taxable year, in a severely~~
 22 ~~distressed county taxpayer that has nine or more employees for at least 40 weeks during~~
 23 ~~the taxable year may qualify for a credit against the tax imposed by this Division by~~
 24 ~~creating new full-time jobs with the corporation in the severely distressed county~~
 25 ~~taxpayer's business during that year. A corporation taxpayer that hires an additional full-~~
 26 ~~time employee during that year to fill a position located in a severely distressed county~~
 27 ~~this State is allowed a credit of two thousand eight hundred dollars (\$2,800) for the~~
 28 ~~additional employee for that employee in the amount provided in the following table~~
 29 ~~based on the distress tier of the area in which the position is located:~~

<u>Area Distress Tier</u>	<u>Amount of Credit</u>
<u>Tier One</u>	<u>\$20,000</u>
<u>Tier Two</u>	<u>4,000</u>
<u>Tier Three</u>	<u>3,000</u>
<u>Tier Four</u>	<u>1,000</u>
<u>Tier Five</u>	<u>300</u>

36 A position is located in a county an area if (i) at least more than fifty percent (50%) of
 37 the employee's duties are performed in the county, or (ii) area or the employee is a resident
 38 of the county area. If an employee resides in an area in this State and more than fifty
 39 percent (50%) of the employee's duties are performed in a different area in this State, the
 40 position is located in the area with the lower-numbered distress tier. The credit may not
 41 be taken in the income taxable year in which the additional employee is hired. Instead,
 42 the credit shall be taken in equal installments over the four years following the income
 43 taxable year in which the additional employee was hired and shall be conditioned on the

1 continued employment by the ~~corporation-taxpayer~~ of the number of full-time employees
2 the ~~corporation-taxpayer~~ had upon hiring the employee that caused the ~~corporation-taxpayer~~
3 to qualify for the credit. ~~If,~~

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

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

17 ~~For the purposes of this section, a full-time job is a position that requires at least 1,600~~
18 ~~hours of work per year and is intended to be held by one employee during the entire year.~~
19 ~~A full-time employee is an employee who holds a full-time job.~~

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

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

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

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

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

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

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

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

1 ~~A designation as a severely distressed county is effective only for the calendar year~~
2 ~~following the designation.~~

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

19 (e) ~~Limitations. — The sale, merger, acquisition, or bankruptcy of a business, or~~
20 ~~any other transaction by which an existing business reformulates itself as another~~
21 ~~business, does not create new eligibility in a succeeding business with respect to jobs for~~
22 ~~which the predecessor was not eligible under this section. A successor corporation may,~~
23 ~~however, take any installment of or carried over portion of a credit that its predecessor~~
24 ~~could have taken if it had taxable income.~~

25 ~~Jobs transferred from one county in the State to another county in the State shall not~~
26 ~~be considered new jobs for purposes of this section. A credit taken under this section~~
27 ~~may not exceed fifty percent (50%) of the tax imposed by this Division for the taxable~~
28 ~~year, reduced by the sum of all other credits allowed under this Division, except tax~~
29 ~~payments made by or on behalf of the corporation. Any unused portion of the credit may~~
30 ~~be carried forward for the succeeding five years.~~

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

37 **"§ 105-129.9. Credit for investing in machinery and equipment.**

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

1 taken for the taxable year in which the equipment is placed in service but shall be taken
2 in equal installments over the seven years following the taxable year in which the
3 equipment is placed in service.

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

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

<u>Area Distress Tier</u>	<u>Threshold</u>
Tier One	\$ -0-
Tier Two	100,000
Tier Three	200,000
Tier Four	500,000
Tier Five	1,000,000

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

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

34 **"§ 105-129.10. Credit for research and development.**

35 A taxpayer who claims for the taxable year a federal income tax credit under section
36 41 of the Code for increasing research activities is allowed a credit equal to five percent
37 (5%) of the State's apportioned share of the taxpayer's expenditures for increasing
38 research activities. The State's apportioned share of a taxpayer's expenditures for
39 increasing research activities is the excess of the taxpayer's qualified research expenses
40 for the taxable year over the base amount, as determined under section 41 of the Code,
41 multiplied by a percentage equal to the ratio of the taxpayer's qualified research expenses
42 in this State for the taxable year to the taxpayer's total qualified research expenses for the

1 taxable year. As used in this section, the terms 'qualified research expenses' and 'base
2 amount' have the meaning provided in section 41 of the Code.

3 **"§ 105-129.11. Credit for worker training.**

4 (a) Credit. – A taxpayer that provides worker training for nine or more of its
5 eligible employees during the taxable year is allowed a credit equal to fifty percent (50%)
6 of its eligible expenditures for the training. For positions located in a tier one distress
7 area, the credit may not exceed one thousand dollars (\$1,000) per employee trained
8 during the taxable year. For other positions, the credit may not exceed five hundred
9 dollars (\$500.00) per employee trained during the taxable year. A position is located in
10 an area if more than fifty percent (50%) of the employee's duties are performed in the
11 area or the employee is a resident of the area. If an employee resides in an area in this
12 State and more than fifty percent (50%) of the employee's duties are performed in a
13 different area in this State, the position is located in the area with the lower-numbered
14 distress tier.

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

17 Sec. 4. G.S. 105-151.17 is recodified as G.S. 105-129.8. G.S. 105-129.8, as
18 rewritten by this act, incorporates both G.S. 105-130.40 and G.S. 105-151.17.

19 Sec. 5. G.S. 143B-437A reads as rewritten:

20 **"§ 143B-437A. Industrial Development Fund.**

21 (a) Creation and Purpose of Fund. – There is created in the Department of
22 Commerce the Industrial Development Fund to provide funds to assist the local
23 government units of the most economically ~~depressed~~ distressed counties in the State in
24 creating jobs in ~~qualified~~ certain industries. As used in this section, the term 'qualified
25 industry' means the manufacturing of goods or the processing of foods, raw materials, chemicals
26 and process agents, goods in process, or finished products. The Department of Commerce
27 shall adopt rules providing for the administration of the program. Those rules shall
28 include the ~~following:~~ following provisions, which shall apply to each grant from the
29 fund:

- 30 (1) The funds shall be used for (i) installation of or purchases of equipment
31 for ~~qualified industries, manufacturing or processing,~~ (ii) structural
32 repairs, improvements, or renovations of existing buildings to be used
33 for expansion of ~~qualified industries, manufacturing or processing,~~ or (iii)
34 construction of or improvements to new or existing water, sewer, gas, or
35 electrical utility distribution lines or equipment for existing or new or
36 proposed industrial buildings to be used for ~~qualified industrial operations,~~
37 or (iv) in the case of counties designated as severely distressed counties under
38 G.S. 105-130.40(c) or G.S. 105-151.17(c) or units of local government within
39 those counties, construction of or improvement to new or existing water,
40 sewer, gas, or electrical utility distribution lines or equipment to serve new or
41 proposed industrial buildings to be used for qualified industrial operations.
42 manufacturing or processing operations. To be eligible for funding, the
43 water, sewer, gas, or electrical utility lines or facilities shall be located

1 on the site of the building or, if not located on the site, shall be directly
2 related to the operation of the specific ~~qualified industrial manufacturing~~
3 ~~or processing activity.~~

4 (1a) The funds shall be used for projects located in economically distressed
5 counties except that ~~However,~~ the Secretary of Commerce may use up to
6 one hundred thousand dollars (\$100,000) to provide emergency
7 economic development assistance in any county ~~which~~ that is
8 documented to be experiencing a major economic dislocation.

9 (2) The funds shall be used by the city and county governments for projects
10 that will directly result in the creation of new jobs. The funds shall be
11 expended at a rate of ~~two thousand four hundred dollars (\$2,400)~~ four
12 thousand dollars (\$4,000) per new job created up to a maximum of ~~two~~
13 ~~hundred fifty thousand dollars (\$250,000)~~ four hundred thousand dollars
14 (\$400,000) per project.

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

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

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

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

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

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

32 (b1) Utility Account. – There is created within the Industrial Development Fund a
33 special account to be known as the Utility Account to provide funds to assist the local
34 government units of tier one distress areas, as defined in G.S. 105-129.3, in creating jobs
35 in manufacturing and processing, warehousing and distribution, and data processing, as
36 defined in the Standard Industrial Classification Manual issued by the United States
37 Bureau of the Census. The Department of Commerce shall adopt rules providing for the
38 administration of the program. Except as otherwise provided in this subsection, those
39 rules shall be consistent with the rules adopted with respect to the Industrial Development
40 Fund. The rules shall provide that the funds in the Utility Account may be used only for
41 construction of or improvements to new or existing water, sewer, gas, or electrical utility
42 distribution lines or equipment for existing or new or proposed industrial buildings to be
43 used for industrial operations in manufacturing or processing, warehousing or

1 distribution, or data processing. To be eligible for funding, the water, sewer, gas, or
2 electrical utility lines or facilities shall be located on the site of the building or, if not
3 located on the site, shall be directly related to the operation of the specific industrial
4 activity. There shall be no maximum funding amount per new job to be created or per
5 project.

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

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

- 15 (1) ~~500 or more manufacturing jobs in the county; or~~
16 (2) ~~A number of manufacturing jobs which is equal to or more than ten~~
17 ~~percent (10%) of the existing manufacturing workforce in the county."~~

18 Sec. 6. Part 2 of Article 10 of Chapter 143B of the General Statutes is
19 amended by adding a new section to read:

20 "**§ 143B-437D. Economic development block grants.**

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

26 Sec. 7. G.S. 105-241.1(e) reads as rewritten:

27 "(e) Statute of Limitations. – The Secretary may propose an assessment of tax due
28 from a taxpayer at any time if (i) the taxpayer did not file a proper application for a
29 license or did not file a return, (ii) the taxpayer filed a false or fraudulent application or
30 return, or (iii) the taxpayer attempted in any manner to fraudulently evade or defeat the
31 tax. If a taxpayer files a return reflecting a federal determination as provided in G.S. 105-
32 29, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, the Secretary must
33 propose an assessment of any tax due within one year after the return is filed or within
34 three years of when the original return was filed or due to be filed, whichever is later. If
35 there is a federal determination and the taxpayer does not file the required return, the
36 Secretary must propose an assessment of any tax due within three years after the date the
37 Secretary received the final report of the federal determination. If a taxpayer forfeits a tax
38 credit pursuant to G.S. ~~105-163.014~~, 105-163.014 or Article 3A of this Chapter, the
39 Secretary must assess any tax or additional tax due as a result of the forfeiture within
40 three years after the date of the forfeiture. In all other cases, the Secretary must propose
41 an assessment of any tax due from a taxpayer within three years after the date the
42 taxpayer filed an application for a license or a return or the date the application or return
43 was required by law to be filed, whichever is later. If the Secretary proposes an

1 assessment of tax within the time provided in this section, the final assessment of the tax
2 is timely.

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

7 Sec. 8. G.S. 153A-376(f) reads as rewritten:

8 "(f) All program income from Economic Development Grants from the Small
9 Cities Community Development Block Grant Program may be retained by recipient
10 ~~'severely'~~economically distressed counties', as ~~designated under G.S. 105-130.40(e)~~, defined
11 in G.S. 143B-437A for the purposes of creating local economic development revolving
12 loan funds. Such program income derived through the use by counties of Small Cities
13 Community Development Block Grant money includes but is not limited to: (i) payment
14 of principal and interest on loans made by the county using Community Development
15 Block Grant Funds; (ii) proceeds from the lease or disposition of real property acquired
16 with Community Development Block Grant Funds; and (iii) any late fees associated with
17 loan or lease payments in (i) and (ii) above. The local economic development revolving
18 loan fund set up by the county shall fund only those activities eligible under Title I of the
19 federal Housing and Community Development Act of 1974, as amended (P.L. 93-383),
20 and shall meet at least one of the three national objectives of the Housing and
21 Community Development Act. Any expiration of G.S. ~~105-130.40(e)~~-143B-437A or G.S.
22 105-129.3 shall not affect this subsection as to designations of ~~severely~~-economically
23 distressed counties made prior to its expiration."

24 Sec. 9. G.S. 160A-456(e1) reads as rewritten:

25 "(e1) All program income from Economic Development Grants from the Small
26 Cities Community Development Block Grant Program may be retained by recipient cities
27 in ~~'severely'~~economically distressed counties', as ~~designated under G.S. 105-130.40(e)~~,
28 defined in G.S. 143B-437A, for the purposes of creating local economic development
29 revolving loan funds. Such program income derived through the use by cities of Small
30 Cities Community Development Block Grant money includes but is not limited to: (i)
31 payment of principal and interest on loans made by the county using Community
32 Development Block Grant Funds; (ii) proceeds from the lease or disposition of real
33 property acquired with Community Development Block Grant Funds; and (iii) any late
34 fees associated with loan or lease payments in (i) and (ii) above. The local economic
35 development revolving loan fund set up by the city shall fund only those activities
36 eligible under Title I of the federal Housing and Community Development Act of 1974,
37 as amended (P.L. 93-383), and shall meet at least one of the three national objectives of
38 the Housing and Community Development Act. Any expiration of G.S. ~~105-130.40(e)~~-
39 143B-437A or G.S. 105-129.3 shall not affect this subsection as to designations of
40 ~~severely~~-economically distressed counties made prior to its expiration."

41 Sec. 10. G.S. 143B-437A(b1), as enacted by this act, becomes effective only if
42 the sum of five million dollars (\$5,000,000) for the 1996-97 fiscal year is appropriated to
43 the Department of Commerce for the Utility Account created in the Industrial

1 Development Fund pursuant to this act. This act does not obligate the General Assembly
2 to appropriate funds.

3 Sec. 11. Notwithstanding the provisions of G.S. 105-129.10, as enacted by this
4 act, if a taxpayer relocates an employee to this State during 1996, any in-house research
5 expenses the taxpayer incurs with respect to that employee during 1996, either before or
6 after the employee is relocated to this State, are considered in-house research expenses in
7 this State for the purposes of G.S. 105-129.10.

8 Sec. 12. Sections 5, 6, and 8 through 10 of this act become effective July 1,
9 1996. The remainder of this act is effective for taxable years beginning on or after
10 January 1, 1996, and applies to jobs created on or after July 1, 1996, and new machinery
11 and equipment placed in service on or after July 1, 1996. Article 3A of Chapter 105 of
12 the General Statutes is repealed effective for applications for credits filed under G.S. 105-
13 129.6 on or after January 1, 2002.