

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1373

Short Title: 1996 Economic Incentives Package.

(Public)

Sponsors: Representatives Gray; Brawley, H. Hunter, McMahan, Mercer, G. Miller, Owens, Russell, Thompson, and Wilkins.

Referred to: Finance.

May 29, 1996

A BILL TO BE ENTITLED
AN ACT TO PROVIDE ECONOMIC INCENTIVES FOR NORTH CAROLINA
BUSINESS.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as the Economic Incentives Act of 1995.

Sec. 2. G.S. 105-130.3 reads as rewritten:

"§ 105-130.3. Corporations.

A tax is imposed on the State net income of every C Corporation doing business in this State ~~at seven and seventy-five one-hundredths percent (7.75%) of the corporation's State net income.~~ State. An S Corporation is not subject to the tax levied in this section. The tax is a percentage of the taxpayer's State net income computed as follows:

Income Years Beginning	Tax
<u>In 1997</u> <u>7.5%</u>	
<u>In 1998</u> <u>7.25%</u>	
<u>In 1999</u> <u>7%</u>	
<u>After 1999</u>	<u>6.75%".</u>

Sec. 3. G.S. 115C-546.1 reads as rewritten:

"§ 115C-546.1. Creation of Fund; administration.

1 (a) There is created the Public School Building Capital Fund. The Fund shall be
2 used to assist county governments in meeting their public school building capital needs.

3 (b) Each calendar quarter, the Secretary of Revenue shall remit to the State
4 Treasurer for credit to the Public School Building Capital Fund an amount equal to ~~two~~
5 ~~thirty-firsts (2/31)~~ the applicable proportion provided in the table below of the net
6 collections received during the previous quarter by the Department of Revenue under
7 G.S. 105-130.3 minus two million five hundred thousand dollars (\$2,500,000). All funds
8 deposited in the Public School Building Capital Fund shall be invested as provided in
9 G.S. 147-69.2 and G.S. 147-69.3.

10 Period Proportion

11 10/1/97 to 9/30/98

One-fifteenth (1/15)

12 10/1/98 to 9/30/99

Two twenty-ninths (2/29)

13 10/1/99 to 9/30/00

One-fourteenth (1/14)

14 After 9/30/00

Two twenty-sevenths (2/27)

15 (c) The Fund shall be administered by the Office of State Budget and
16 Management."

17 Sec. 4. Chapter 105 of the General Statutes is amended by adding a new
18 Article 3A entitled "Tax Incentives for New and Expanding Businesses."

19 Sec. 5. G.S. 105-130.40 is recodified as G.S. 105-129.8 in Article 3A of
20 Chapter 105 of the General Statutes.

21 Sec. 6. Article 3A of Chapter 105 of the General Statutes, as enacted by this
22 act, reads as rewritten:

23 **"ARTICLE 3A.**

24 **"TAX INCENTIVES FOR NEW AND EXPANDING BUSINESSES.**

25 **"§ 105-129.2. Definitions.**

26 The following definitions apply in this Article:

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

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

30 (3) Distress tier. – The classification assigned to an area pursuant to G.S.
31 105-129.3.

32 (4) Full-time job. – A position that requires at least 1,600 hours of work per
33 year and is intended to be held by one employee during the entire year.
34 A full-time employee is an employee who holds a full-time job.

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

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

42 (7) New machinery and equipment. – Machinery and equipment the first
43 use of which in this State occurs after its purchase by the taxpayer and

1 which is capitalized on the taxpayer's books in accordance with
2 generally accepted accounting principles, including financial accounting
3 standards issued by the Financial Accounting Standards Board.

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

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

7 **"§ 105-129.3. Distress tier designation.**

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

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

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

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

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

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

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

31 **"§ 105-129.4. Eligibility; forfeiture.**

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

38 (b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs or the
39 credit for worker training if the jobs for which the credit is claimed meet the wage
40 standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the
41 credit for investing in machinery and equipment or the credit for research and
42 development if the jobs at the location with respect to which the credit is claimed meet
43 the wage standard at the time the taxpayer applies for the credit. Jobs meet the wage

1 standard if they pay an average weekly wage that is at least ten percent (10%) above the
2 average weekly wage paid in the county in which the jobs will be located. In calculating
3 the average weekly wage of jobs, positions that pay a wage or salary at a rate that exceeds
4 one hundred thousand dollars (\$100,000) a year shall be excluded. For the purpose of
5 this subsection, the average wage in a county is the average wage for all insured
6 industries in the county as computed by the Employment Security Commission for the
7 most recent period for which data are available.

8 (c) Health Insurance. – A taxpayer is eligible for the credit for creating jobs or the
9 credit for worker training if the taxpayer provides health insurance for the positions for
10 which the credit is claimed at the time the taxpayer applies for the credit. A taxpayer is
11 eligible for the credit for investing in machinery and equipment or the credit for research
12 and development if the taxpayer provides health insurance for the full-time positions at
13 the location with respect to which the credit is claimed at the time the taxpayer applies for
14 the credit. For the purpose of this subsection, a taxpayer provides health insurance if it
15 pays at least fifty percent (50%) of the premiums for health care coverage that equals or
16 exceeds the minimum provisions of the basic health care plan of coverage recommended
17 by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

18 Each year that a taxpayer claims an installment or carryforward of a credit allowed
19 under this Article, the taxpayer shall provide with the tax return the taxpayer's
20 certification that the taxpayer continues to provide health insurance for the jobs for which
21 the credit was claimed or the full-time jobs at the location with respect to which the credit
22 was claimed. If the taxpayer ceases to provide health insurance for the jobs during a
23 taxable year, the credit expires and the taxpayer may not take any remaining installment
24 or carryforward of the credit.

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

30 The credit for worker training is allowed only with respect to employees in positions
31 not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. § 213(a)(1) and
32 for expenditures for training that would be eligible for expenditure or reimbursement
33 under the Department of Community Colleges' New and Expanding Industry Program, as
34 determined by guidelines adopted by the Board of Trustees of the Department of
35 Community Colleges. To establish eligibility, the taxpayer must obtain as part of the
36 application process under G.S. 105-129.6 the certification of the Department of
37 Community Colleges that the taxpayer's planned worker training would satisfy the
38 requirements of this paragraph. A taxpayer shall apply to the Department of Community
39 Colleges for this certification. The application must be on a form provided by the
40 Department of Community Colleges, must provide a detailed plan of the worker training
41 to be provided, and must contain any information required by the Department of
42 Community Colleges to determine whether the requirements of this paragraph will be
43 satisfied. If the Department of Community Colleges determines that the planned worker

1 training meets the requirements of this paragraph, the Department of Community
2 Colleges shall issue a certificate describing the location with respect to which the credit is
3 claimed and stating that the planned worker training meets the requirements of this
4 paragraph. The Department of Community Colleges may adopt rules in accordance with
5 Chapter 150B of the General Statutes that are needed to carry out its responsibilities
6 under this paragraph.

7 (e) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the
8 taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. A
9 taxpayer who forfeits a credit under this Article is liable for all past taxes avoided as a
10 result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed
11 from the date the taxes would have been due if the credit had not been allowed. The past
12 taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer who
13 fails to pay the past taxes and interest by the due date is subject to the penalties provided
14 in G.S. 105-236. If a taxpayer forfeits the credit for creating jobs or the credit for
15 investing in machinery and equipment, the taxpayer also forfeits any credit for worker
16 training claimed for the jobs for which the credit for creating jobs was claimed or the jobs
17 at the location with respect to which the credit for investing in machinery and equipment
18 was claimed.

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

25 **"§ 105-129.5. Tax election; cap.**

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

31 (b) Cap. – The credits allowed under this Article may not exceed fifty percent
32 (50%) of the tax against which they are claimed for the taxable year, reduced by the sum
33 of all other credits allowed against that tax, except tax payments made by or on behalf of
34 the taxpayer. This limitation applies to the cumulative amount of credit, including
35 carryforwards, claimed by the taxpayer under this Article against each tax for the taxable
36 year. Any unused portion of the credit may be carried forward for the succeeding five
37 years.

38 **"§ 105-129.6. Application; fee; reports.**

39 (a) Application. – To claim the credits allowed by this Article, the taxpayer must
40 provide with the tax return the certification of the Secretary of Commerce that the
41 taxpayer meets all of the eligibility requirements of G.S. 105-129.4 with respect to each
42 credit. A taxpayer shall apply to the Secretary of Commerce for certification of
43 eligibility. The application must be on a form provided by the Secretary of Commerce,

1 must specify the credit and the tax against which it will be claimed, and must contain any
 2 information required by the Secretary of Commerce. If the Secretary determines that the
 3 taxpayer meets all of the eligibility requirements of G.S. 105-129.4 with respect to a
 4 credit, the Secretary shall issue a certificate describing the location with respect to which
 5 the credit is claimed, specifying the tax against which the credit will be claimed, outlining
 6 the eligibility requirements for the credit, and stating that the taxpayer meets the
 7 eligibility requirements. The Secretary of Commerce may adopt rules in accordance with
 8 Chapter 150B of the General Statutes that are needed to carry out the Secretary of
 9 Commerce's responsibilities under this section.

10 (b) Fee. – When filing an application for certification under this section, the
 11 taxpayer must pay the Department of Commerce a fee for each credit the taxpayer intends
 12 to claim, subject to a maximum fee. The amount of the per credit fee and the maximum
 13 fee is provided in the table below based on the distress tier of the location with respect to
 14 which the credits are claimed. If the taxpayer applies for certification for credits that
 15 relate to locations in more than one distress tier area, the fee is based on the highest-
 16 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>

17 The Secretary of Commerce shall retain one-fourth of the proceeds of the fee imposed
 18 in this section for the costs of administering this section. The Secretary of Commerce
 19 shall credit the remaining proceeds of the fee imposed in this section to the Department
 20 of Revenue for the costs of administering and auditing the credits allowed in this Article.
 21 The proceeds of the fee are receipts of the Department to which they are credited.

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

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

30 **"§ 105-129.7. Substantiation.**

31 To claim a credit allowed by this Article, the taxpayer must provide any information
 32 required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article
 33 shall maintain and make available for inspection by the Secretary of Revenue any records
 34 the Secretary considers necessary to determine and verify the amount of the credit to
 35 which the taxpayer is entitled. The burden of proving eligibility for the credit and the
 36 amount of the credit shall be on the taxpayer.

1 amount of the credit shall rest upon the taxpayer, and no credit shall be allowed to a
2 taxpayer that fails to maintain adequate records or to make them available for inspection.

3 **"§ 105-129.8. Credit for creating jobs in severely distressed county- jobs.**

4 (a) Credit. – A ~~corporation that (i) for at least 40 weeks during the year has at least~~
5 ~~nine employees and (ii) is located, for part or all of its taxable year, in a severely~~
6 ~~distressed county taxpayer that has nine or more employees for at least 40 weeks during~~
7 ~~the taxable year may qualify for a credit against the tax imposed by this Division by~~
8 ~~creating new full-time jobs with the corporation in the severely distressed county~~
9 ~~taxpayer's business during that year. A corporation taxpayer that hires an additional full-~~
10 ~~time employee during that year to fill a position located in a severely distressed county~~
11 ~~this State is allowed a credit of two thousand eight hundred dollars (\$2,800) for the~~
12 ~~additional employee. for that employee in the amount provided in the following table~~
13 ~~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>

20 A position is located in ~~a county~~ an area if ~~(i) at least more than~~ (i) at least more than fifty percent (50%) of
21 the employee's duties are performed in the ~~county, or (ii) area or the employee is a resident~~
22 ~~of the county-area. If an employee resides in an area in this State and more than fifty~~
23 ~~percent (50%) of the employee's duties are performed in a different area in this State, the~~
24 ~~position is located in the area with the lower-numbered distress tier. The credit may not~~
25 ~~be taken in the income taxable year in which the additional employee is hired. Instead,~~
26 ~~the credit shall be taken in equal installments over the four years following the income~~
27 ~~taxable year in which the additional employee was hired and shall be conditioned on the~~
28 ~~continued employment by the corporation taxpayer of the number of full-time employees~~
29 ~~the corporation taxpayer had upon hiring the employee that caused the corporation taxpayer~~
30 ~~to qualify for the credit. If,~~

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

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

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

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

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

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

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

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

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

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

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

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

1 (a) in the year any new employees are hired, ~~it~~ the taxpayer may take the credit under that
2 subsection.

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

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

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

21 **"§ 105-129.9. Credit for investing in machinery and equipment.**

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

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

38 (c) Threshold. – The applicable threshold is the appropriate amount set out in the
39 following table based on the distress tier of the area where the new machinery and
40 equipment are placed in service during the taxable year. If the taxpayer places new
41 machinery and equipment in service in more than one area during the taxable year, the
42 threshold applies separately to the new machinery and equipment placed in service in
43 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

(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 nine 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 tier one distress 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 or the employee is a resident of the area. If an employee resides in an area in this State and more than fifty percent (50%) of the employee's duties are performed in a different area in this State, the position is located in the area with the lower-numbered distress tier.

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

1 Sec. 7. G.S. 105-151.17 is recodified as G.S. 105-129.8. G.S. 105-129.8, as
2 rewritten by this act, incorporates both G.S. 105-130.40 and G.S. 105-151.17.

3 Sec. 8. G.S. 143B-437A reads as rewritten:

4 **"§ 143B-437A. Industrial Development Fund.**

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

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

31 (1a) The funds shall be used for projects located in economically distressed
32 counties except that ~~However,~~ the Secretary of Commerce may use up to
33 one hundred thousand dollars (\$100,000) to provide emergency
34 economic development assistance in any county ~~which~~ that is
35 documented to be experiencing a major economic dislocation.

36 (2) The funds shall be used by the city and county governments for projects
37 that will directly result in the creation of new jobs. The funds shall be
38 expended at a rate of ~~two thousand four hundred dollars (\$2,400)~~ four
39 thousand dollars (\$4,000) per new job created up to a maximum of ~~two~~
40 ~~hundred fifty thousand dollars (\$250,000)~~ four hundred thousand dollars
41 (\$400,000) per project.

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

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

2 (1) Economically distressed county. – A county designated as a distress tier

3 one, two, or three area pursuant to G.S. 105-129.3.

4 (2) Major economic dislocation. – The actual or imminent loss of 500 or

5 more manufacturing jobs in the county or of a number of manufacturing

6 jobs equal to at least ten percent (10%) of the existing manufacturing

7 workforce in the county.

8 (3) Manufacturing and processing. – Defined in the Standard Industrial

9 Classification Manual issued by the United States Bureau of the Census.

10 (b) ~~Each year, on or before December 31, the Secretary of Commerce shall~~

11 ~~designate the most economically distressed counties in the State; this designation shall~~

12 ~~remain effective for the following calendar year. The Secretary of Commerce shall~~

13 ~~determine which counties are the most economically distressed counties in the State~~

14 ~~based on (i) rate of unemployment, (ii) per capita income, and (iii) relative population~~

15 ~~and work force growth or lack of growth, as determined by the Secretary of Commerce.~~

16 (b1) Utility Account. – There is created within the Industrial Development Fund a

17 special account to be known as the Utility Account to provide funds to assist the local

18 government units of tier one distress areas, as defined in G.S. 105-129.3, in creating jobs

19 in manufacturing and processing, warehousing and distribution, and data processing, as

20 defined in the Standard Industrial Classification Manual issued by the United States

21 Bureau of the Census. The Department of Commerce shall adopt rules providing for the

22 administration of the program. Except as otherwise provided in this subsection, those

23 rules shall be consistent with the rules adopted with respect to the Industrial Development

24 Fund. The rules shall provide that the funds in the Utility Account may be used only for

25 construction of or improvements to new or existing water, sewer, gas, or electrical utility

26 distribution lines or equipment for existing or new or proposed industrial buildings to be

27 used for industrial operations in manufacturing or processing, warehousing or

28 distribution, or data processing. To be eligible for funding, the water, sewer, gas, or

29 electrical utility lines or facilities shall be located on the site of the building or, if not

30 located on the site, shall be directly related to the operation of the specific industrial

31 activity. There shall be no maximum funding amount per new job to be created or per

32 project.

33 (c) Reports. – The Department of Commerce shall report annually to the General

34 Assembly concerning the applications made to the fund and the payments made from the

35 fund and the impact of the payments on job creation in the State. The Department of

36 Commerce shall also report quarterly to the Joint Legislative Commission on

37 Governmental Operations and the Fiscal Research Division on the use of the moneys in

38 the fund, including information regarding to whom payments were made, in what

39 amounts, and for what purposes.

40 (d) ~~As used in this section, 'major economic dislocation' means the actual or~~

41 ~~imminent loss of:~~

42 (1) ~~500 or more manufacturing jobs in the county; or~~

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

3 Sec. 9. Part 2 of Article 10 of Chapter 143B of the General Statutes is
4 amended by adding a new section to read:

5 **"§ 143B-437D. Economic development block grants.**

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

11 Sec. 10. G.S. 105-241.1(e) reads as rewritten:

12 "(e) Statute of Limitations. – The Secretary may propose an assessment of tax due
13 from a taxpayer at any time if (i) the taxpayer did not file a proper application for a
14 license or did not file a return, (ii) the taxpayer filed a false or fraudulent application or
15 return, or (iii) the taxpayer attempted in any manner to fraudulently evade or defeat the
16 tax. If a taxpayer files a return reflecting a federal determination as provided in G.S. 105-
17 29, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, the Secretary must
18 propose an assessment of any tax due within one year after the return is filed or within
19 three years of when the original return was filed or due to be filed, whichever is later. If
20 there is a federal determination and the taxpayer does not file the required return, the
21 Secretary must propose an assessment of any tax due within three years after the date the
22 Secretary received the final report of the federal determination. If a taxpayer forfeits a tax
23 credit pursuant to ~~G.S. 105-163.014,~~ 105-163.014 or Article 3A of this Chapter, the
24 Secretary must assess any tax or additional tax due as a result of the forfeiture within
25 three years after the date of the forfeiture. In all other cases, the Secretary must propose
26 an assessment of any tax due from a taxpayer within three years after the date the
27 taxpayer filed an application for a license or a return or the date the application or return
28 was required by law to be filed, whichever is later. If the Secretary proposes an
29 assessment of tax within the time provided in this section, the final assessment of the tax
30 is timely.

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

35 Sec. 11. G.S. 153A-376(f) reads as rewritten:

36 "(f) All program income from Economic Development Grants from the Small
37 Cities Community Development Block Grant Program may be retained by recipient
38 ~~'severely'economically distressed counties', as designated under G.S. 105-130.40(e), defined~~
39 in G.S. 143B-437A for the purposes of creating local economic development revolving
40 loan funds. Such program income derived through the use by counties of Small Cities
41 Community Development Block Grant money includes but is not limited to: (i) payment
42 of principal and interest on loans made by the county using Community Development
43 Block Grant Funds; (ii) proceeds from the lease or disposition of real property acquired

1 with Community Development Block Grant Funds; and (iii) any late fees associated with
2 loan or lease payments in (i) and (ii) above. The local economic development revolving
3 loan fund set up by the county shall fund only those activities eligible under Title I of the
4 federal Housing and Community Development Act of 1974, as amended (P.L. 93-383),
5 and shall meet at least one of the three national objectives of the Housing and
6 Community Development Act. Any expiration of G.S. ~~105-130.40(e)-143B-437A~~ or G.S.
7 105-129.3 shall not affect this subsection as to designations of ~~severely~~-economically
8 distressed counties made prior to its expiration."

9 Sec. 12. G.S. 160A-456(e1) reads as rewritten:

10 "(e1) All program income from Economic Development Grants from the Small
11 Cities Community Development Block Grant Program may be retained by recipient cities
12 in '~~severely~~-economically distressed counties', as ~~designated under G.S. 105-130.40(e),~~
13 defined in G.S. 143B-437A, for the purposes of creating local economic development
14 revolving loan funds. Such program income derived through the use by cities of Small
15 Cities Community Development Block Grant money includes but is not limited to: (i)
16 payment of principal and interest on loans made by the county using Community
17 Development Block Grant Funds; (ii) proceeds from the lease or disposition of real
18 property acquired with Community Development Block Grant Funds; and (iii) any late
19 fees associated with loan or lease payments in (i) and (ii) above. The local economic
20 development revolving loan fund set up by the city shall fund only those activities
21 eligible under Title I of the federal Housing and Community Development Act of 1974,
22 as amended (P.L. 93-383), and shall meet at least one of the three national objectives of
23 the Housing and Community Development Act. Any expiration of G.S. ~~105-130.40(e)-~~
24 143B-437A or G.S. 105-129.3 shall not affect this subsection as to designations of
25 ~~severely~~-economically distressed counties made prior to its expiration."

26 Sec. 13. G.S. 143B-437A(b1), as enacted by this act, becomes effective only if
27 the sum of five million dollars (\$5,000,000) for the 1996-97 fiscal year is appropriated to
28 the Department of Commerce for the Utility Account created in the Industrial
29 Development Fund pursuant to this act. This act does not obligate the General Assembly
30 to appropriate funds.

31 Sec. 14. Notwithstanding the provisions of G.S. 105-129.10, as enacted by this
32 act, if a taxpayer relocates an employee to this State during 1996, any in-house research
33 expenses the taxpayer incurs with respect to that employee during 1996, either before or
34 after the employee is relocated to this State, are considered in-house research expenses in
35 this State for the purposes of G.S. 105-129.10.

36 Sec. 15. Section 2 of this act is effective for taxable years beginning on or
37 after January 1, 1997. Section 3 of this act becomes effective October 1, 1997, and
38 applies to remittances made on or after that date. Sections 8, 9, and 11 through 13 of this
39 act become effective July 1, 1996. The remainder of this act is effective for taxable years
40 beginning on or after January 1, 1996, and applies to jobs created on or after July 1, 1996,
41 and new machinery and equipment placed in service on or after July 1, 1996. Article 3A
42 of Chapter 105 of the General Statutes is repealed effective for applications for credits
43 filed under G.S. 105-129.6 on or after January 1, 2002.