

GENERAL ASSEMBLY OF NORTH CAROLINA

SECOND EXTRA SESSION 1996

S

2

SENATE BILL 5  
Second Edition Engrossed 7/10/96

Short Title: Quality Jobs and Business Expansion.

(Public)

---

Sponsors: Senators Kerr, Rand, and Plexico.

---

Referred to: Finance.

---

July 8, 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.

18 (3) Distress tier. – The classification assigned to an area pursuant to G.S.  
19 105-129.3.

- 1           (4) Full-time job. – A position that requires at least 1,600 hours of work per  
2 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           (5) Machinery and equipment. – Engines, machinery, tools, and implements  
5 used or designed to be used in manufacturing or processing,  
6 warehousing and distribution, or data processing. The term does not  
7 include real property as defined in G.S. 105-273 or rolling stock as  
8 defined in G.S. 105-333.
- 9           (6) Manufacturing and processing. – Defined in the Standard Industrial  
10 Classification Manual issued by the United States Bureau of the Census.
- 11           (7) New machinery and equipment. – Machinery and equipment the first  
12 use of which in this State occurs after its purchase by the taxpayer and  
13 which is capitalized by the taxpayer for tax purposes under the Code.
- 14           (8) Purchase. – Defined in section 179 of the Code.
- 15           (9) Warehousing and distribution. – Defined in the Standard Industrial  
16 Classification Manual issued by the United States Bureau of the Census.

17 **"§ 105-129.3. Distress tier designation.**

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

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

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

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

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

41 **"§ 105-129.4. Eligibility; forfeiture.**

42           (a) Type of Business. – A taxpayer is eligible for a credit allowed by this Article if  
43 the taxpayer engages in manufacturing or processing, warehousing or distributing, or data

1 processing, and the jobs with respect to which a credit is claimed are created in that  
2 business, the machinery and equipment with respect to which a credit is claimed are used  
3 in that business, and the research and development for which a credit is claimed are  
4 carried out as part of that business.

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

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

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

42 (d) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the  
43 taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. A

1 taxpayer who forfeits a credit under this Article is liable for all past taxes avoided as a  
2 result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed  
3 from the date the taxes would have been due if the credit had not been allowed. The past  
4 taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer who  
5 fails to pay the past taxes and interest by the due date is subject to the penalties provided  
6 in G.S. 105-236. If a taxpayer forfeits the credit for creating jobs or the credit for  
7 investing in machinery and equipment, the taxpayer also forfeits any credit for worker  
8 training claimed for the jobs for which the credit for creating jobs was claimed or the jobs  
9 at the location with respect to which the credit for investing in machinery and equipment  
10 was claimed.

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

17 **"§ 105-129.5. Tax election; cap.**

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

23 (b) Cap. – The credits allowed under this Article may not exceed fifty percent  
24 (50%) of the tax against which they are claimed for the taxable year, reduced by the sum  
25 of all other credits allowed against that tax, except tax payments made by or on behalf of  
26 the taxpayer. This limitation applies to the cumulative amount of credit, including  
27 carryforwards, claimed by the taxpayer under this Article against each tax for the taxable  
28 year. Any unused portion of the credit may be carried forward for the succeeding five  
29 years.

30 **"§ 105-129.6. Application; reports.**

31 (a) Application. – To claim the credits allowed by this Article, the taxpayer must  
32 provide with the tax return the certification of the Secretary of Commerce that the  
33 taxpayer meets all of the eligibility requirements of G.S. 105-129.4 with respect to each  
34 credit. A taxpayer shall apply to the Secretary of Commerce for certification of  
35 eligibility. The application must be on a form provided by the Secretary of Commerce,  
36 must specify the credit and the tax against which it will be claimed, and must contain any  
37 information required by the Secretary of Commerce. If the Secretary determines that the  
38 taxpayer meets all of the eligibility requirements of G.S. 105-129.4 with respect to a  
39 credit, the Secretary shall issue a certificate describing the location with respect to which  
40 the credit is claimed, specifying the tax against which the credit will be claimed, outlining  
41 the eligibility requirements for the credit, and stating that the taxpayer meets the  
42 eligibility requirements. If the Secretary determines that the taxpayer does not meet all of  
43 the eligibility requirements of G.S. 105-129.4 with respect to a credit, the Secretary must

1 advise the taxpayer in writing of the eligibility requirements the taxpayer fails to meet.  
 2 The Secretary of Commerce may adopt rules in accordance with Chapter 150B of the  
 3 General Statutes that are needed to carry out the Secretary of Commerce's responsibilities  
 4 under this section.

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

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

13 **"§ 105-129.7. Substantiation.**

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

21 **"§ 105-129.8. Credit for creating jobs in severely distressed county- jobs.**

22 (a) Credit. – A corporation that (i) for at least 40 weeks during the year has at least  
 23 nine employees and (ii) is located, for part or all of its taxable year, in a severely  
 24 distressed county taxpayer that meets the eligibility requirements set out in G.S. 105-  
 25 129.4, has five or more employees for at least 40 weeks during the taxable year, may  
 26 qualify for a credit against the tax imposed by this Division by creating new full-time  
 27 jobs with the corporation in the severely distressed county during that year. A  
 28 corporation and that hires an additional full-time employee during that year to fill a  
 29 position located in a severely distressed county this State is allowed a credit of two  
 30 thousand eight hundred dollars (\$2,800) for the additional employee. for creating a new  
 31 full-time job. The amount of the credit for each new full-time job created is set out in the  
 32 table below and is 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>

33  
 34  
 35  
 36  
 37  
 38  
 39 A position is located in a county an area if (i) at least more than fifty percent (50%) of  
 40 the employee's duties are performed in the county, or (ii) the employee is a resident of the  
 41 county area. The credit may not be taken in the income taxable year in which the  
 42 additional employee is hired. Instead, the credit shall be taken in equal installments over  
 43 the four years following the income taxable year in which the additional employee was

1 hired and shall be conditioned on the continued employment by the ~~corporation-taxpayer~~  
2 of the number of full-time employees the ~~corporation-taxpayer~~ had upon hiring the  
3 employee that caused the ~~corporation-taxpayer~~ 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

17  
18  
19  
20  
21  
22  
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 five 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 distress tier one  
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.

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

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

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

17 **"§ 143B-437A. Industrial Development Fund.**

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

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

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

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

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

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

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

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

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

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

29       (b1) Utility Account. – There is created within the Industrial Development Fund a  
30 special account to be known as the Utility Account to provide funds to assist the local  
31 government units of distress tier one areas, as defined in G.S. 105-129.3, in creating jobs  
32 in manufacturing and processing, warehousing and distribution, and data processing, as  
33 defined in the Standard Industrial Classification Manual issued by the United States  
34 Bureau of the Census. The Department of Commerce shall adopt rules providing for the  
35 administration of the program. Except as otherwise provided in this subsection, those  
36 rules shall be consistent with the rules adopted with respect to the Industrial Development  
37 Fund. The rules shall provide that the funds in the Utility Account may be used only for  
38 construction of or improvements to new or existing water, sewer, gas, or electrical utility  
39 distribution lines or equipment for existing or new or proposed industrial buildings to be  
40 used for industrial operations in manufacturing or processing, warehousing or  
41 distribution, or data processing. To be eligible for funding, the water, sewer, gas, or  
42 electrical utility lines or facilities shall be located on the site of the building or, if not  
43 located on the site, shall be directly related to the operation of the specific industrial

1 activity. There shall be no maximum funding amount per new job to be created or per  
2 project.

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

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

12 (1) ~~500 or more manufacturing jobs in the county; or~~

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

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

17 **"§ 143B-437D. Economic development block grants.**

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

23 Sec. 7. G.S. 105-241.1(e), as amended by Chapter 646 of the 1995 Session  
24 Laws, reads as rewritten:

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

30 If a taxpayer files a return reflecting a federal determination as provided in G.S. 105-  
31 29, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, the Secretary must  
32 propose an assessment of any tax due within one year after the return is filed or within  
33 three years of when the original return was filed or due to be filed, whichever is later. If  
34 there is a federal determination and the taxpayer does not file the required return, the  
35 Secretary must propose an assessment of any tax due within three years after the date the  
36 Secretary received the final report of the federal determination. If a taxpayer forfeits a tax  
37 credit pursuant to ~~G.S. 105-163.014,~~ 105-163.014 or Article 3A of this Chapter, the  
38 Secretary must assess any tax due as a result of the forfeiture within three years after the  
39 date of the forfeiture. If a taxpayer elects under section 1033(a)(2)(A) of the Code not to  
40 recognize gain from involuntary conversion of property into money, the Secretary must  
41 assess any tax due as a result of the conversion or election within the applicable period  
42 provided under section 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code. If a taxpayer

1 sells at a gain the taxpayer's principal residence, the Secretary must assess any tax due as  
2 a result of the sale within the period provided under section 1034(j) of the Code.

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

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

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

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

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

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

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

1 the Housing and Community Development Act. Any expiration of G.S. ~~105-130.40(e)~~  
2 143B-437A or G.S. 105-129.3 shall not affect this subsection as to designations of  
3 severely economically distressed counties made prior to its expiration."

4       Sec. 10. Notwithstanding the provisions of G.S. 105-129.10, as enacted by this  
5 act, if a taxpayer relocates an employee to this State during 1996, any in-house research  
6 expenses the taxpayer incurs with respect to that employee during 1996, either before or  
7 after the employee is relocated to this State, are considered in-house research expenses in  
8 this State for the purposes of G.S. 105-129.10. Notwithstanding the definition of "Code"  
9 in G.S. 105-228.90, if the federal tax credit for increasing research activities that was  
10 formerly allowed under section 41 of the Code is reenacted, the credit for research and  
11 development allowed in Article 3A of Chapter 105 of the General Statutes, as enacted by  
12 this act, becomes effective for the same taxable year for which the reenacted federal  
13 credit becomes effective.

14       Sec. 11. Sections 5, 6, and 8 through 9 of this act become effective July 1,  
15 1996. G.S. 105-129.11, as enacted by this act, becomes effective for taxable years  
16 beginning on or after January 1, 1997, and applies to training expenditures made on or  
17 after March 1, 1997. The remainder of this act is effective for taxable years beginning on  
18 or after January 1, 1996, and applies to jobs created on or after July 1, 1996, and new  
19 machinery and equipment placed in service on or after July 1, 1996. Article 3A of  
20 Chapter 105 of the General Statutes is repealed effective for applications for credits filed  
21 under G.S. 105-129.6 on or after January 1, 2002.

22       Section 12. This act shall be called the William S. Lee Quality Jobs and  
23 Business Expansion Act.