

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1569*

Short Title: Economic Opportunity Act of 1998.

(Public)

Sponsors: Senators Hoyle, Ballance, McDaniel, Martin of Guilford, Cochrane, Horton; Blust, Cooper, Dalton, Lucas, Phillips, Purcell, and Warren.

Referred to: Finance.

June 1, 1998

A BILL TO BE ENTITLED

AN ACT TO FURTHER PROMOTE DEVELOPMENT IN ALL AREAS OF THE STATE BY MODIFYING THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT, CREATING STATE DEVELOPMENT ZONES, PROVIDING FUNDS FOR INFRASTRUCTURE IN RURAL AND LESS PROSPEROUS AREAS, AND ENCOURAGING DEVELOPMENT OF AIR COURIER HUBS.

The General Assembly of North Carolina enacts:

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PART I. BILL LEE ACT/DEVELOPMENT ZONES

Section 1. Article 3A of Chapter 105 of the General Statutes reads as rewritten:

"ARTICLE 3A.

"TAX INCENTIVES FOR NEW AND EXPANDING BUSINESSES.

[REPEALED EFFECTIVE JANUARY 1, 2002]

"§ 105-129.2. (Repealed effective January 1, 2002 – see note) Definitions.

The following definitions apply in this Article:

- (1) ~~Air courier services. – Defined in the Standard Industrial Classification Manual issued by the United States Office of Management and Budget. A company is engaged in the air courier services business if it is primarily engaged in furnishing air delivery of individually addressed letters, parcels, and packages, except by the U.S. Postal Service.~~
- (1a) ~~Central administrative office. – Defined in the Standard Industrial Classification Manual issued North American Industry Classification System adopted by the United States Office of Management and Budget.~~
- (1b) ~~Cost. – Determined In the case of property owned by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code. In the case of property the taxpayer leases from another, cost is value as determined pursuant to G.S. 105-130.4(j)(2).~~
- (2) ~~Data processing. – Defined in the Standard Industrial Classification Manual issued North American Industry Classification System adopted by the United States Office of Management and Budget.~~
- (2a) ~~Development zone. – An area designated as a development zone pursuant to G.S. 105-129.3A.~~
- (3) ~~Enterprise tier. – The classification assigned to an area pursuant to G.S. 105-129.3.~~
- (4) ~~Full-time job. – A position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year. A full-time employee is an employee who holds a full-time job.~~
- (4a) ~~Reserved.~~
- (4b) ~~Large investment. – Defined in G.S. 105-129.4(b1).~~
- (5) ~~Machinery and equipment. – Engines, machinery, tools, and implements that are capitalized by the taxpayer for tax purposes under the Code and are used or designed to be used in the business for which the credit is claimed. The term does not include real property as defined in G.S. 105-273 or rolling stock as defined in G.S. 105-333.~~
- (6) ~~Manufacturing and processing. Manufacturing. – Defined in the Standard Industrial Classification Manual issued North American Industry Classification System adopted by the United States Office of Management and Budget.~~
- (7) ~~Purchase. – Defined in section 179 of the Code.~~
- (8) ~~Warehousing and distribution. – Defined in the Standard Industrial Classification Manual issued wholesale trade. – Defined in the North American Industry Classification System adopted by the United States Office of Management and Budget.~~

"§ 105-129.3. (Repealed effective January 1, 2002) Enterprise tier designation.

1 (a) Tiers Defined. – An enterprise tier one area is a county whose enterprise factor
2 is one of the 10 highest in the State. An enterprise tier two area is a county whose
3 enterprise factor is one of the next 15 highest in the State. An enterprise tier three area is
4 a county whose enterprise factor is one of the next 25 highest in the State. An enterprise
5 tier four area is a county whose enterprise factor is one of the next 25 highest in the State.
6 An enterprise tier five area is any area that is not in a lower-numbered enterprise tier.

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

- 10 (1) The county's rank in a ranking of counties by average rate of
11 unemployment from lowest to highest, for the preceding three years.
- 12 (2) The county's rank in a ranking of counties by average per capita income
13 from highest to lowest, for the preceding three years.
- 14 (3) The county's rank in a ranking of counties by percentage growth in
15 population from highest to lowest.

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

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

24 (c) Exception for Enterprise Tier One Areas. – Notwithstanding the provisions of
25 this section, an enterprise tier one area may not be redesignated as a higher-numbered
26 enterprise tier area until it has been an enterprise tier one area for at least two consecutive
27 years.

28 **"§ 105-129.3A. Development zone designation.**

29 (a) Development Zone Defined. – A development zone is an area comprised of
30 one or more contiguous census tracts and census block groups in the most recent federal
31 decennial census that meets all of the following conditions:

- 32 (1) It is located in whole or in part in a city with a population of more than
33 5,000 according to the most recent annual population estimates certified
34 by the State Planning Officer.
- 35 (2) It has a population of 1,000 or more according to the most recent annual
36 population estimates certified by the State Planning Officer.
- 37 (3) More than twenty percent (20%) of its population is below the poverty
38 level according to the most recent federal decennial census.

39 (b) Designation. – Upon request of a taxpayer or a local government, the Secretary
40 of Commerce shall designate whether an area is a development zone that meets the
41 conditions of subsection (a) of this section. A development zone designation is effective
42 for 48 months following the designation.

1 (c) Relationship With Enterprise Tiers. – For the purpose of the credit for worker
2 training allowed in G.S. 105-129.11, a development zone is considered an enterprise tier
3 one area. For all other purposes, a development zone has the same enterprise tier
4 designation as the county in which it is located.

5 **"§ 105-129.4. (Repealed effective January 1, 2002) Eligibility; forfeiture.**

6 (a) Type of Business. – A taxpayer is eligible for a credit allowed by G.S. 105-
7 129.12 if the real property for which the credit is claimed is used for a central
8 administrative office that creates at least 40 new jobs. A taxpayer is eligible for the other
9 credits allowed by this Article if the taxpayer engages in one of the following types of
10 businesses and the jobs with respect to which a credit is claimed are created in that
11 business, the machinery and equipment with respect to which a credit is claimed are used
12 in that business, and the research and development for which a credit is claimed are
13 carried out as part of that business:

14 (1) Air courier services.

15 (2) Central administrative office that creates at least 40 new jobs.

16 (3) Data processing.

17 (4) ~~Manufacturing or processing.~~ Manufacturing.

18 (5) ~~Warehousing or distribution.~~ wholesale trade.

19 (a1) Central Administrative Office. – A central administrative office creates at least
20 40 new jobs ~~if, during the taxable year the taxpayer first uses the property as a central~~
21 ~~administrative office, if the taxpayer hires at least 40 additional full-time employees to~~
22 ~~fill new positions at the office.~~ office either in the year the taxpayer first uses the property
23 as a central administrative office or in the preceding 24 months while using temporary
24 space for the central administrative office functions during completion of the
25 administrative office property. Jobs transferred from one area in the State to another area
26 in the State are not considered new jobs for purposes of this subsection.

27 (b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs or the
28 credit for worker training if the jobs for which the credit is claimed meet the wage
29 standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the
30 credit for investing in machinery and equipment, the credit for research and development,
31 or the credit for investing in real property for a central administrative office if the jobs at
32 the location with respect to which the credit is claimed meet the wage standard at the time
33 the taxpayer applies for the credit. Jobs meet the wage standard if they pay an average
34 weekly wage that is at least equal to the applicable percentage times the applicable
35 average weekly wage for the county in which the jobs will be located, as computed by the
36 Secretary of Commerce from data compiled by the Employment Security Commission
37 for the most recent period for which data are available. The applicable percentage for
38 jobs located in an enterprise tier one area is one hundred percent (100%). The applicable
39 percentage for all other jobs is one hundred ten percent (110%). The applicable average
40 weekly wage is the lowest of the following: (i) the average wage for all insured private
41 employers in the county, (ii) the average wage for all insured private employers in the
42 State, and (iii) the average wage for all insured private employers in the county
43 multiplied by the county income/wage adjustment factor. The county income/wage

1 adjustment factor is the county income/wage ratio divided by the State income/wage
2 ratio. The county income/wage ratio is average per capita income in the county divided
3 by the annualized average wage for all insured private employers in the county. The State
4 income/wage ratio is the average per capita income in the State divided by the annualized
5 average wage for all insured private employers in the State.

6 (b1) Large Investment. – A taxpayer who is otherwise eligible for a tax credit under
7 this Article becomes eligible for the large investment enhancements provided for credits
8 under this Article if the Secretary of Commerce certifies that the taxpayer will purchase
9 or lease, and place in service in connection with the eligible business within a two-year
10 period, at least one hundred fifty million dollars (\$150,000,000) worth of one or more of
11 the following: real property, machinery and equipment, or central administrative office
12 property. If the taxpayer fails to make the level of investment certified within this two-
13 year period, the taxpayer forfeits the large investment enhancements as provided in
14 subsection (d) of this section.

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

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

41 (d) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the
42 taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. In
43 addition, a taxpayer forfeits a large investment enhancement of a tax credit if the taxpayer

1 fails to make the level of investment certified by the Secretary of Commerce under
2 subsection (b1) of this section within the required two-year period. A taxpayer that
3 forfeits a credit under this Article is liable for all past taxes avoided as a result of the
4 credit plus interest at the rate established under G.S. 105-241.1(i), computed from the
5 date the taxes would have been due if the credit had not been allowed. The past taxes and
6 interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay
7 the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-
8 236. If a taxpayer forfeits the credit for creating jobs or the credit for investing in
9 machinery and equipment, the taxpayer also forfeits any credit for worker training
10 claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the
11 location with respect to which the credit for investing in machinery and equipment was
12 claimed.

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

21 (1) The business closed before it was acquired.

22 (2) The business was required to file a notice of plant closing or mass layoff
23 under the federal Worker Adjustment and Retraining Notification Act,
24 29 U.S.C. § 2102, before it was acquired.

25 **"§ 105-129.5. (Repealed effective January 1, 2002) 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 credit for investing in central administrative office property
29 provided in G.S. 105-129.12 is also allowed against the gross premiums tax levied in
30 Article 8B of this Chapter. The taxpayer shall elect the tax against which a credit will be
31 claimed when filing the return on which the first installment of the credit is claimed. This
32 election is binding. Any carryforwards of the credit must be claimed against the same tax.

33 (b) Cap. – The credits allowed under this Article may not exceed fifty percent
34 (50%) of the tax against which they are claimed for the taxable year, reduced by the sum
35 of all other credits allowed against that tax, except tax payments made by or on behalf of
36 the taxpayer. This limitation applies to the cumulative amount of credit, including
37 carryforwards, claimed by the taxpayer under this Article against each tax for the taxable
38 year. Any unused portion of the a credit with respect to a large investment may be carried
39 forward for the succeeding five years–20 years. Any unused portion of any other credit
40 may be carried forward for the succeeding five years.

41 **"§ 105-129.6. (Repealed effective January 1, 2002) Application; reports.**

42 (a) Application. – To claim the credits allowed by this Article, the taxpayer must
43 provide with the tax return the certification of the Secretary of Commerce that the

1 taxpayer meets all of the eligibility requirements of G.S. 105-129.4 with respect to each
 2 credit. A taxpayer shall apply to the Secretary of Commerce for certification of
 3 eligibility. The application must be on a form provided by the Secretary of Commerce
 4 and must contain any information necessary for the Secretary of Commerce to determine
 5 whether the taxpayer meets the eligibility requirements. If the Secretary of Commerce
 6 determines that the taxpayer meets all of the eligibility requirements of G.S. 105-129.4
 7 with respect to a credit, the Secretary shall issue a certificate describing the location with
 8 respect to which the credit is claimed, outlining the eligibility requirements for the credit,
 9 and stating that the taxpayer meets the eligibility requirements. If the Secretary of
 10 Commerce determines that the taxpayer does not meet all of the eligibility requirements
 11 of G.S. 105-129.4 with respect to a credit, the Secretary must advise the taxpayer in
 12 writing of the eligibility requirements the taxpayer fails to meet. The Secretary of
 13 Commerce may adopt rules in accordance with Chapter 150B of the General Statutes that
 14 are needed to carry out the Secretary of Commerce's responsibilities under this section.

15 (a) Fee. – When filing an application for certification under this section, the
 16 taxpayer must pay the Department of Commerce a fee of seventy-five dollars (\$75.00).
 17 Fees collected under this subsection are receipts of the Department of Commerce.

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

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

26 **"§ 105-129.7. (Repealed effective January 1, 2002) Substantiation.**

27 To claim a credit allowed by this Article, the taxpayer must provide any information
 28 required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article
 29 shall maintain and make available for inspection by the Secretary of Revenue any records
 30 the Secretary considers necessary to determine and verify the amount of the credit to
 31 which the taxpayer is entitled. The burden of proving eligibility for the credit and the
 32 amount of the credit shall rest upon the taxpayer, and no credit shall be allowed to a
 33 taxpayer that fails to maintain adequate records or to make them available for inspection.

34 **"§ 105-129.8. (Repealed effective January 1, 2002) Credit for creating jobs.**

35 (a) Credit. – A taxpayer that meets the eligibility requirements set out in G.S. 105-
 36 129.4, has five or more employees for at least 40 weeks during the taxable year, and hires
 37 an additional full-time employee during that year to fill a position located in this State is
 38 allowed a credit for creating a new full-time job. The amount of the credit for each new
 39 full-time job created is set out in the table below and is based on the enterprise tier of the
 40 area in which the position is ~~located~~-located. In addition, if the position is located in a
 41 development zone, the amount of the credit is increased by four thousand dollars (\$4,000)
 42 per job.

43 Area Enterprise Tier

Amount of Credit

| | | |
|---|------------|----------|
| 1 | Tier One | \$12,500 |
| 2 | Tier Two | 4,000 |
| 3 | Tier Three | 3,000 |
| 4 | Tier Four | 1,000 |
| 5 | Tier Five | 500 |

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

13 If, in one of the four years in which the installment of a credit accrues, the number of
14 the taxpayer's full-time employees falls below the number of full-time employees the
15 taxpayer had in the year in which the taxpayer qualified for the credit, the credit expires
16 and the taxpayer may not take any remaining installment of the credit. The taxpayer may,
17 however, take the portion of an installment that accrued in a previous year and was
18 carried forward to the extent permitted under G.S. 105-129.5.

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

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

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

27 (d) Planned Expansion. – A taxpayer that signs a letter of commitment with the
28 Department of Commerce to create at least twenty new full-time jobs in a specific area
29 within two years of the date the letter is signed qualifies for the credit in the amount
30 allowed by this section based on the area's enterprise tier and development zone
31 designation for that year even though the employees are not hired that year. The credit
32 shall be available in the taxable year after at least twenty employees have been hired if
33 the hirings are within the two-year commitment period. The conditions outlined in
34 subsection (a) apply to a credit taken under this subsection except that if the area is
35 redesignated to a higher-numbered enterprise tier or loses its development zone
36 designation after the year the letter of commitment was signed, the credit is allowed
37 based on the area's enterprise tier and development zone designation for the year the letter
38 was signed. If the taxpayer does not hire the employees within the two-year period, the
39 taxpayer does not qualify for the credit. However, if the taxpayer qualifies for a credit
40 under subsection (a) in the year any new employees are hired, the taxpayer may take the
41 credit under that subsection.

42 (e), (f) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3 for
43 taxable years beginning on or after January 1, 1996.

1 **"§ 105-129.9. (Repealed effective January 1, 2002) Credit for investing in machinery**
 2 **and equipment.**

3 (a) Credit. – If a taxpayer that has purchased or leased eligible machinery and
 4 equipment places it in service in this State during the taxable year, the taxpayer is
 5 allowed a credit equal to seven percent (7%) of the excess of the eligible investment
 6 amount over the applicable threshold. Machinery and equipment is eligible if is
 7 capitalized by the taxpayer for tax purposes under the Code and is not leased to another
 8 party. In addition, in the case of a large investment, machinery and equipment that is not
 9 capitalized by the taxpayer is eligible if the taxpayer leases it from another party. The
 10 credit may not be taken for the taxable year in which the equipment is placed in service
 11 but shall be taken in equal installments over the seven years following the taxable year in
 12 which the equipment is placed in service.

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

20 (c) Threshold. —~~The~~For eligible machinery and equipment placed in service in a
 21 development zone during the taxable year, the applicable threshold is zero. For other
 22 eligible machinery and equipment, the applicable threshold is the appropriate amount set
 23 out in the following table based on the enterprise tier of the area where the eligible
 24 machinery and equipment are placed in service during the taxable year. If the taxpayer
 25 places eligible machinery and equipment in service in more than one area during the
 26 taxable year, the threshold applies separately to the eligible machinery and equipment
 27 placed in service in each area. If the taxpayer places eligible machinery and equipment in
 28 service in an area over the course of a two-year period, the applicable threshold for the
 29 second taxable year is reduced by the eligible investment amount for the previous taxable
 30 year.

| Area | Enterprise Tier | Threshold |
|------------|-----------------|-----------|
| Tier One | | \$ -0- |
| Tier Two | | 100,000 |
| Tier Three | | 200,000 |
| Tier Four | | 500,000 |
| Tier Five | | 1,000,000 |

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

41 If, in one of the seven years in which the installment of a credit accrues, the
 42 machinery and equipment with respect to which the credit was claimed are moved to an
 43 area in a higher-numbered enterprise tier, or are moved from a development zone to an

1 area that is not a development zone, the remaining installments of the credit are allowed
2 only to the extent they would have been allowed if the machinery and equipment had
3 been placed in service initially in the area to which they were moved.

4 (e) Planned Expansion. – A taxpayer that signs a letter of commitment with the
5 Department of Commerce to place specific eligible machinery and equipment in service
6 in an area within two years after the date the letter is signed may, in the year the eligible
7 machinery and equipment are placed in service in that area, calculate the credit for which
8 the taxpayer qualifies based on the area's enterprise tier and development zone
9 designation for the year the letter was signed. All other conditions apply to the credit, but
10 if the area has been redesignated to a higher-numbered enterprise tier or has lost its
11 development zone designation after the year the letter of commitment was signed, the
12 credit is allowed based on the area's enterprise tier and development zone designation for
13 the year the letter was signed. If the taxpayer does not place part or all of the specified
14 eligible machinery and equipment in service within the two-year period, the taxpayer
15 does not qualify for the benefit of this subsection with respect to the machinery and
16 equipment not placed in service within the two-year period. However, if the taxpayer
17 qualifies for a credit in the year the eligible machinery and equipment are placed in
18 service, the taxpayer may take the credit for that year as if no letter of commitment had
19 been signed pursuant to this subsection.

20 **"§ 105-129.10. (Repealed effective January 1, 2002) Credit for research and**
21 **development.**

22 (a) General Credit. – A taxpayer that claims for the taxable year a federal income
23 tax credit under section ~~41~~41(a) of the Code for increasing research activities is allowed
24 a credit equal to five percent (5%) of the State's apportioned share of the taxpayer's
25 expenditures for increasing research activities. The State's apportioned share of a
26 taxpayer's expenditures for increasing research activities is the excess of the taxpayer's
27 qualified research expenses for the taxable year over the base amount, as determined
28 under section 41 of the Code, multiplied by a percentage equal to the ratio of the
29 taxpayer's qualified research expenses in this State for the taxable year to the taxpayer's
30 total qualified research expenses for the taxable year.

31 (b) Alternative Credit. – A taxpayer that claims the alternative incremental credit
32 under section 41(c)(4) of the Code for increasing research activities is allowed a credit
33 equal to twenty-five percent (25%) of the State's apportioned share of the federal credit
34 claimed. The State's apportioned share of the federal credit claimed is the amount of the
35 alternative incremental credit the taxpayer claimed under section 41(c)(4) of the Code for
36 the taxable year multiplied by a percentage equal to the ratio of the taxpayer's qualified
37 research expenses in this State for the taxable year to the taxpayer's total qualified
38 research expenses for the taxable year.

39 (c) Definitions. – As used in this section, the terms "qualified research expenses"
40 and "base amount" have the meaning provided in section 41 of the Code.

41 **"§ 105-129.11. (Repealed effective January 1, 2002) Credit for worker training.**

42 (a) Credit. – A taxpayer that provides worker training for five or more of its
43 eligible employees during the taxable year is allowed a credit equal to ~~fifty percent (50%)~~

1 of its ~~eligible expenditures for the wages paid to the eligible employees during the~~
2 training. Wages paid to an employee performing his or her job while being trained are not
3 eligible for the credit. For positions located in an enterprise tier one area, the credit may
4 not exceed one thousand dollars (\$1,000) per employee trained during the taxable year.
5 For other positions, the credit may not exceed five hundred dollars (\$500.00) per
6 employee trained during the taxable year. A position is located in an area if more than
7 fifty percent (50%) of the employee's duties are performed in the area.

8 (b) Eligibility. — ~~The eligibility of a taxpayer's expenditures and employees is~~
9 ~~determined as provided in G.S. 105-129.4.~~ An employee is eligible if the employee is in a
10 full-time position not classified as exempt under the Fair Labor Standards Act, 29 U.S.C.
11 § 213(a)(1) and meets one or more of the following conditions:

12 (1) The employee occupies a job for which the taxpayer is eligible to claim
13 an installment of the credit for creating jobs.

14 (2) The employee is being trained to operate machinery and equipment for
15 which the taxpayer is eligible to claim an installment of the credit for
16 investing in machinery and equipment.

17 **"§ 105-129.12. (Repealed effective January 1, 2002) Credit for investing in central**
18 **administrative office property.**

19 (a) Credit. — If a taxpayer that has purchased or leased real property in this State
20 begins to use the property as a central administrative office during the taxable year, the
21 taxpayer is allowed a credit equal to seven percent (7%) of the eligible investment
22 amount. The eligible investment amount is the lesser of (i) the cost of the property and
23 (ii) the amount by which the cost of all of the property the taxpayer is using in this State
24 as central administrative offices on the last day of the taxable year exceeds the cost of all
25 of the property the taxpayer was using in this State as central administrative offices on
26 the last day of the base year. The base year is that year, of the three immediately
27 preceding taxable years, in which the taxpayer was using the most property in this State
28 as central administrative offices. In the case of property that is leased, the cost of the
29 property is not determined as provided in G.S. 105-129.2 but is considered to be the
30 taxpayer's lease payments over a seven-year period, plus any expenditures made by the
31 taxpayer to improve the property before it is used as the taxpayer's central administrative
32 office if the expenditures are not reimbursed or credited by the lessor. The maximum
33 credit allowed a taxpayer under this section for property used as a central administrative
34 office is five hundred thousand dollars (\$500,000). The entire credit may not be taken for
35 the taxable year in which the property is first used as a central administrative office but
36 shall be taken in equal installments over the seven years following the taxable year in
37 which the property is first used as a central administrative office. The basis in any real
38 property for which a credit is allowed under this section shall be reduced by the amount
39 of credit allowable.

40 (b) Mixed Use Property. — If the taxpayer uses only part of the property as the
41 taxpayer's central administrative office, the amount of the credit allowed under this
42 section is reduced by multiplying it by a fraction the numerator of which is the square

1 footage of the property used as the taxpayer's central administrative office and the
2 denominator of which is the total square footage of the property.

3 (c) Expiration. – If, in one of the seven years in which the installment of a credit
4 accrues, the property with respect to which the credit was claimed is no longer used as a
5 central administrative office, the credit expires and the taxpayer may not take any
6 remaining installment of the credit. If, in one of the seven years in which the installment
7 of a credit accrues, part of the property with respect to which the credit was claimed is no
8 longer used as a central administrative office, the remaining installments of the credit
9 shall be reduced by multiplying it by the fraction described in subsection (b) of this
10 section. If, in one of the seven years in which the installment of a credit accrues, the total
11 number of employees the taxpayer employs at all of its central administrative offices in
12 this State drops by 40 or more, the credit expires and the taxpayer may not take any
13 remaining installment of the credit.

14 In each of these cases, the taxpayer may nonetheless take the portion of an installment
15 that accrued in a previous year and was carried forward to the extent permitted under
16 G.S. 105-129.5."

17 Section 2. G.S. 105-129.15(2) reads as rewritten:

18 "(2) Cost. —~~Determined~~ In the case of property owned by the taxpayer, cost
19 is determined pursuant to regulations adopted under section 1012 of the
20 Code, subject to the limitation on cost provided in section 179 of the
21 Code. In the case of property the taxpayer leases from another, cost is
22 value as determined pursuant to G.S. 105-130.4(j)(2)."

23 Section 3. G.S. 143B-437.04 reads as rewritten:

24 "**§ 143B-437.04. Economic development block grants.**

25 (a) The Department of Commerce shall adopt guidelines for the awarding of
26 Community Development Block Grants for economic development that will ensure ~~that~~
27 ~~no~~ that:

28 (1) No local match is required for grants awarded for projects located in
29 enterprise tier one areas as defined in G.S. ~~105-129.3~~ and, to 105-129.3.

30 (2) To the extent practicable, ~~that~~ priority consideration for grants is given
31 to projects located in enterprise tier one areas as defined in G.S. ~~105-~~
32 ~~129.3.~~ 105-129.3 or in development zones that have met the conditions
33 of subsection (b) of this section.

34 (b) In order to qualify for the benefits of this section, after an area is designated a
35 development zone under G.S. 105-129.3A, the governing body of the city in which the
36 zone is located must adopt a strategy to improve the zone and establish a development
37 zone committee to oversee the strategy. The strategy and the committee must conform
38 with requirements established by the Secretary of Commerce."

39 PART II. INFRASTRUCTURE FUNDS

40 Section 4. It is the intent of the General Assembly to appropriate funds from
41 the General Fund to the Department of Commerce for the 1998-99 fiscal year to be
42 allocated to the Utility Account of the Industrial Development Fund for use in accordance
43 with G.S. 143B-437.01(b1).

1 Section 5. It is the intent of the General Assembly to appropriate funds from
2 the General Fund to the Department of Commerce for the 1998-99 fiscal year to be
3 allocated to the Industrial Development Fund for use in accordance with G.S. 143B-
4 437.01(a).

5 Section 6. G.S. 143B-437.01 reads as rewritten:

6 **"§ 143B-437.01. Industrial Development Fund.**

7 (a) Creation and Purpose of Fund. – There is created in the Department of
8 Commerce the Industrial Development Fund to provide funds to assist the local
9 government units of the most economically distressed counties in the State in creating
10 jobs in certain industries. The Department of Commerce shall adopt rules providing for
11 the administration of the program. Those rules shall include the following provisions,
12 which shall apply to each grant from the fund:

13 (1) The funds shall be used for (i) installation of or purchases of equipment
14 for ~~manufacturing or processing, eligible industries,~~ (ii) structural
15 repairs, improvements, or renovations of existing buildings to be used
16 for expansion of ~~manufacturing or processing, eligible industries,~~ or (iii)
17 construction of or improvements to new or existing water, sewer, gas, or
18 electrical utility distribution lines or equipment for existing or new or
19 proposed industrial buildings to be used for ~~manufacturing or~~
20 ~~processing operations, eligible industries.~~ To be eligible for funding,
21 the water, sewer, gas, or electrical utility lines or facilities shall be
22 located on the site of the building or, if not located on the site, shall be
23 directly related to the operation of the specific ~~manufacturing or~~
24 ~~processing eligible industrial~~ activity.

25 (1a) The funds shall be used for projects located in economically distressed
26 counties except that the Secretary of Commerce may use up to one
27 hundred thousand dollars (\$100,000) to provide emergency economic
28 development assistance in any county that is documented to be
29 experiencing a major economic dislocation.

30 (2) The funds shall be used by the city and county governments for projects
31 that will directly result in the creation of new jobs. The funds shall be
32 expended at a maximum rate of four thousand dollars (\$4,000) five
33 thousand dollars (\$5,000) per new job created up to a maximum of ~~four~~
34 hundred thousand dollars (\$400,000) five hundred thousand dollars
35 (\$500,000) per project.

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

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

39 (1) Air courier services. – A company is engaged in the air courier services
40 business if it is primarily engaged in furnishing air delivery of
41 individually addressed letters, parcels, and packages, except by the U.S.
42 Postal Service.

- 1 (1a) Central administrative office. – Defined in the North American Industry
2 Classification System adopted by the United States Office of
3 Management and Budget.
- 4 (1b) Data processing. – Defined in the North American Industry
5 Classification System adopted by the United States Office of
6 Management and Budget.
- 7 (1c) Economically distressed county. – A county designated as an enterprise
8 tier one, two, or three area pursuant to G.S. 105-129.3.
- 9 (1d) Eligible industry. – A central administrative office or a business
10 engaged in the business of air courier services, data processing,
11 manufacturing, or warehousing and wholesale trade.
- 12 (2) Major economic dislocation. – The actual or imminent loss of 500 or
13 more manufacturing jobs in the county or of a number of manufacturing
14 jobs equal to at least ten percent (10%) of the existing manufacturing
15 workforce in the county.
- 16 (3) ~~Manufacturing and processing.~~ Manufacturing. – Defined in the
17 ~~Standard Industrial Classification Manual issued by the United States~~
18 ~~Bureau of the Census.~~ North American Industry Classification System
19 adopted by the United States Office of Budget and Management.
- 20 (4) Warehousing and wholesale trade. – Defined in the North American
21 Industry Classification System adopted by the United States Office of
22 Management and Budget.
- 23 (b) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.5.
- 24 (b1) Utility Account. – There is created within the Industrial Development Fund a
25 special account to be known as the Utility Account to provide funds to assist the local
26 government units of enterprise tier one and tier two areas, as defined in G.S. 105-129.3,
27 in creating jobs in ~~manufacturing and processing, warehousing and distribution, and data~~
28 ~~processing, as defined in the Standard Industrial Classification Manual issued by the~~
29 ~~United States Bureau of the Census.~~ eligible industries. The Department of Commerce
30 shall adopt rules providing for the administration of the program. Except as otherwise
31 provided in this subsection, those rules shall be consistent with the rules adopted with
32 respect to the Industrial Development Fund. The rules shall provide that the funds in the
33 Utility Account may be used only for construction of or improvements to new or existing
34 water, sewer, gas, or electrical utility distribution lines or equipment for existing or new
35 or proposed industrial buildings to be used for ~~industrial operations in manufacturing or~~
36 ~~processing, warehousing or distribution, or data processing.~~ eligible industrial operations.
37 To be eligible for funding, the water, sewer, gas, or electrical utility lines or facilities
38 shall be located on the site of the building or, if not located on the site, shall be directly
39 related to the operation of the specific industrial activity. There shall be no maximum
40 funding amount per new job to be created or per project.
- 41 (c) Reports. – The Department of Commerce shall report annually to the General
42 Assembly concerning the applications made to the fund and the payments made from the
43 fund and the impact of the payments on job creation in the State. The Department of

1 Commerce shall also report quarterly to the Joint Legislative Commission on
2 Governmental Operations and the Fiscal Research Division on the use of the moneys in
3 the fund, including information regarding to whom payments were made, in what
4 amounts, and for what purposes.

5 (c1) In addition to the reporting requirements of subsection ~~(b1)~~(c) of this section,
6 the Department of Commerce shall report annually to the General Assembly concerning
7 the payments made from the Utility Account and the impact of the payments on job
8 creation in the State. The Department of Commerce shall also report quarterly to the Joint
9 Legislative Commission on Governmental Operations and the Fiscal Research Division
10 on the use of the moneys in the Utility Account including information regarding to whom
11 payments were made, in what amounts, and for what purposes.

12 (d) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.5."

13 PART III. AIR COURIER HUBS

14 Section 7. G.S. 105-164.3 is amended by adding a new subdivision to read:

15 "(6a) Interstate air carrier. – A person engaged in the business of
16 transporting persons or property by air in interstate commerce for
17 compensation."

18 Section 8. G.S. 105-164.4(a)(1d) is amended by adding a new sub-subdivision
19 to read:

20 "j. Sales to interstate air carriers of materials handling equipment,
21 racking systems, and related parts and accessories, for the storage
22 or handling and movement of tangible personal property at an
23 airport or in a warehouse or distribution facility."

24 Section 9. G.S. 105-164.13 is amended by adding a new subdivision to read:

25 "(44) Sales to an interstate air carrier of lubricants, repair parts, and
26 accessories for motor vehicles and aircraft."

27 Section 10. G.S. 105-275 is amended by adding a new subdivision to read:

28 "(24a) Aircraft owned or leased by an air courier, assigned to the air courier's
29 hub in this State, and used in the air courier's operations in this State.
30 For the purpose of this subdivision, the air courier's hub is the airport in
31 this State (i) to which the air courier has assigned more than fifty
32 percent (50%) of its aircraft assigned in this State and (ii) at which the
33 air courier receives packages from consolidation locations for intrastate
34 and interstate sorting and distribution. For the purpose of this
35 subdivision, an air courier is a company engaged in the air courier
36 services business, as defined in G.S. 105-129.2."

37 Section 11(a). The Piedmont Triad International Airport Authority may
38 contract for design and construction of an air freight distribution facility on Airport
39 property without being subject to the requirements of Article 8 of Chapter 143 of the
40 General Statutes.

41 Section 11(b). The Piedmont Triad International Airport Authority may
42 contract for supplies, materials, equipment, and contractual services of the Authority

1 related to an air freight distribution facility on Airport property without being subject to
2 the requirements of Article 3 of Chapter 143 of the General Statutes.

3 **PART IV. EFFECTIVE DATES**

4 Section 12. G.S. 105-129.6(a1), as enacted by Section 1 of this act, becomes
5 effective January 1, 1999, and applies to applications filed on or after that date. The
6 amendment to G.S. 105-129.9(c) made by Section 1 of this act is effective for taxable
7 years beginning on or after January 1, 1998. Section 3 of this act becomes effective
8 January 1, 1999. The remainder of Part I of this act is effective for taxable years
9 beginning on or after January 1, 1999.

10 Section 13. Part II of this act becomes effective July 1, 1998.

11 Section 14. Section 10 of this act is effective for taxes imposed for taxable
12 years beginning on or after July 1, 2001. Section 11 of this act becomes effective January
13 1, 1999, and expires January 1, 2004. The remainder of Part III of this act becomes
14 effective January 1, 2001, and applies to sales made on or after that date.

15 Section 15. The remainder of this act is effective when it becomes law.