

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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HOUSE BILL 1284

Short Title: 21st Century Jobs Act. (Public)

Sponsors: Representatives Tolson, Miner (Primary Sponsors); Gibson, Glazier,
Goodwin, McLawhorn, Owens, Ross, and Warren.

Referred to: Finance.

May 15, 2003

A BILL TO BE ENTITLED
AN ACT TO PROVIDE JOBS FOR THE 21ST CENTURY.

The General Assembly of North Carolina enacts:

PART 1. EXTEND QUALIFIED BUSINESS TAX CREDIT

SECTION 1. G.S. 105-163.015 reads as rewritten:

"§ 105-163.015. Sunset.

This Part is repealed effective for investments made on or after January 1,
~~2004-2007.~~"

PART 2. EXTEND STATE PORTS TAX CREDIT

SECTION 2.1. G.S. 105-130.41(d) reads as rewritten:

"(d) Sunset. – This section is repealed effective for taxable years beginning on or
after January 1, ~~2004-2007.~~"

SECTION 2.2. G.S. 105-151.22(d) reads as rewritten:

"(d) Sunset. – This section is repealed effective for taxable years beginning on or
after January 1, ~~2004-2007.~~"

PART 3. RESEARCH AND DEVELOPMENT TAX INCENTIVE

SECTION 3.1. Chapter 105 of the General Statutes is amended by adding a
new Article 3F entitled "Research and Development."

SECTION 3.2. G.S. 105-129.10(a) is recodified as G.S. 105-129.55, and
G.S. 105-129.10(b) is recodified as G.S. 105-129.56. G.S. 105-129.10(c) is repealed.

SECTION 3.3. Article 3F of Chapter 105 of the General Statutes, as enacted
by this Part, reads as rewritten:

"Article 3F.

"Research and Development.

"§ 105-129.50. Definitions.

The definitions in section 41 of the Code apply in this Article. In addition, the
following definitions apply in this Article:

(1) through (3) Reserved.

- 1 (4) Midsize business. – A business whose annual receipts, combined with
2 the annual receipts of all related persons, for the applicable period of
3 measurement were one million dollars (\$1,000,000) or more but did
4 not exceed twenty-five million dollars (\$25,000,000).
- 5 (5) NAICS. – Defined in G.S. 105-129.2.
- 6 (6) North Carolina research university. – An institution of higher
7 education that meets one or both of the following conditions:
- 8 a. It is located in North Carolina and is classified as one of the
9 following in the most recent edition of 'A Classification of
10 Institutions of Higher Education', the official report of The
11 Carnegie Foundation for the Advancement of Teaching:
- 12 1. Doctoral/Research Universities, Extensive or Intensive.
13 2. Masters Colleges and Universities, I or II.
14 3. Baccalaureate Colleges, Liberal Arts or General.
- 15 b. It is a constituent institution of The University of North
16 Carolina.
- 17 (7) Period of measurement. – Defined in the Small Business Size
18 Regulations of the federal Small Business Administration.
- 19 (8) Qualified North Carolina research expenses. – Qualified research
20 expenses for research performed in this State.
- 21 (9) Receipts. – Defined in the Small Business Size Regulations of the
22 federal Small Business Administration.
- 23 (10) Related person. – Defined in G.S. 105-163.010.
- 24 (11) Small business. – A business whose annual receipts, combined with
25 the annual receipts of all related persons, for the applicable period of
26 measurement did not exceed one million dollars (\$1,000,000).

27 **§ 105-129.51. Administration.**

28 A taxpayer is eligible for the credits allowed in this Article if it satisfies the
29 requirements of G.S. 105-129.4(b), (b2), (b3), and (b4) relating to wage standard, health
30 insurance, environmental impact, and safety and health programs, respectively. The
31 three credits allowed in this Article are exclusive. A taxpayer may elect to take only one
32 of the three credits with respect to its research activities in a taxable year. It may elect a
33 different credit for expenses in a subsequent taxable year.

34 **§ 105-129.52. Tax election; cap.**

35 (a) Tax Election. – The credits allowed in this Article are allowed against the
36 franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4
37 of this Chapter. The taxpayer must elect the tax against which a credit will be claimed
38 when filing the return on which the first installment of the credit is claimed. This
39 election is binding. Any carryforwards of a credit must be claimed against the same tax.

40 (b) Cap. – If the credit allowed in G.S. 105-129.57 for a small business exceeds
41 the amount of tax against which it is claimed for the taxable year reduced by the sum of
42 all credits allowable, the taxpayer may elect instead of carrying it forward to exchange
43 the unused amount of the credit for a cash payment made by the Secretary equal to
44 seventy percent (70%) of the unused amount of the credit.

1 Any other credit allowed in this Article may not exceed fifty percent (50%) of the
2 amount of tax against which it is claimed for the taxable year, reduced by the sum of all
3 other credits allowed against that tax, except tax payments made by or on behalf of the
4 taxpayer. This limitation applies to the cumulative amount of credit, including
5 carryforwards, claimed by the taxpayer under this Article against each tax for the
6 taxable year. Any unused portion of a credit allowed in this Article may be carried
7 forward for the succeeding 15 years.

8 **"§ 105-129.53. Substantiation.**

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

16 **"§ 105-129.54. Reports.**

17 The Department of Revenue must report to the Revenue Laws Study Committee and
18 to the Fiscal Research Division of the General Assembly by May 1 of each year the
19 following information for the 12-month period ending the preceding April 1:

- 20 (1) The number of taxpayers that claimed each credit allowed in this
21 Article.
- 22 (2) The amount of each credit claimed.
- 23 (3) The total cost to the General Fund of the credits claimed.

24 **"§ 105-129.55. General ~~credit~~ credit for increasing research and development.**

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

34 **"§ 105-129.56. Alternative ~~credit~~ credit for increasing research and development.**

35 A taxpayer that claims the alternative incremental credit under section 41(c)(4) of
36 the Code for increasing research activities is allowed a credit equal to twenty-five
37 percent (25%) of the State's apportioned share of the federal credit claimed. The State's
38 apportioned share of the federal credit claimed is the amount of the alternative
39 incremental credit the taxpayer claimed under section 41(c)(4) of the Code for the
40 taxable year multiplied by a percentage equal to the ratio of the taxpayer's qualified
41 North Carolina research expenses ~~in this State~~ for the taxable year to the taxpayer's total
42 qualified research expenses for the taxable year. For the purpose of this section, the
43 amount of the alternative incremental credit claimed by a taxpayer is determined
44 without regard to any reduction elected under section 280C(c) of the Code.

1 **"§ 105-129.57. Credit for North Carolina research and development.**

2 A taxpayer that has qualified North Carolina research expenses, basic research
3 payments to a North Carolina research university for research in this State, or both for
4 the taxable year is allowed a credit equal to the sum of (i) twenty-five percent (25%) of
5 the basic research payments to a North Carolina research university for research in this
6 State plus (ii) a percentage of the qualified North Carolina research expenses,
7 determined as provided in this section. If part of the taxpayer's qualified North Carolina
8 research expenses qualifies under subdivision (3) of this section and the remainder
9 qualifies under subdivision (4) of this section, the applicable percentages apply
10 separately to each part of the expenses.

11 (1) Small business. – If the taxpayer was a small business as of the last
12 day of the taxable year, the applicable percentage is five percent (5%).
13 The credit under this section for a small business is partially
14 refundable at the election of the taxpayer as provided in G.S.
15 105-129.52.

16 (2) Midsize business. – If the taxpayer was a midsize business as of the
17 last day of the taxable year, the applicable percentage is five percent
18 (5%).

19 (3) Low-tier research. – If the qualified North Carolina research was
20 performed in an enterprise tier one, two, or three area, the applicable
21 percentage is five percent (5%).

22 (4) Other research. – To the extent the taxpayer's qualified North Carolina
23 research is not covered under subdivision (1), (2), or (3) of this section,
24 the applicable percentage is one percent (1%)."

25 **PART 4. REDUCE SALES TAX ON RESEARCH AND DEVELOPMENT**
26 **EQUIPMENT**

27 **SECTION 4.** G.S. 105-164.4A is amended by adding a new subdivision to
28 read:

29 **"§ 105-164.4A. Articles taxed at one percent (1%), eighty dollars (\$80.00).**

30 The following articles are taxable under G.S. 105-164.4(a)(1d):

31 ...
32 (13) Research and development equipment. – Sales of machinery and
33 equipment purchased for use or consumption in this State directly and
34 exclusively in basic research or research and development in the
35 experimental or laboratory sense."

36 **PART 5. SALES TAX REFUND FOR BIOPROCESSING PLANT**
37 **CONSTRUCTION MATERIALS**

38 **SECTION 5.1.** G.S. 105-164.14 is amended by adding a new subsection to
39 read:

40 "(j) Bioprocessing Facilities. – The owner of a facility primarily engaged in
41 bioprocessing is allowed an annual refund of sales and use taxes paid by it under this
42 Article on building materials, building supplies, fixtures, and equipment that become a
43 part of the real property of the bioprocessing facility. Liability incurred indirectly by the
44 owner for sales and use taxes on these items is considered tax paid by the owner. A

1 request for a refund must be in writing and must include any information and
2 documentation required by the Secretary. A request for a refund is due within six
3 months after the end of the bioprocessing facility's fiscal year. Refunds applied for after
4 the due date are barred."

5 **SECTION 5.2.(a)** G.S. 105-164.3 is amended by adding a new subdivision
6 to read:

7 "**§ 105-164.3. Definitions.**

8 The following definitions apply in this Article:

9 (1) Bioprocessing. – Manufacturing or processing that includes the culture
10 of cells to make commercial products, the purification of biomolecules
11 from cells, or the use of these molecules in manufacturing."

12 **SECTION 5.2.(b)** The Revisor of Statutes is authorized to renumber the
13 definitions in G.S. 105-164.3 to maintain alphabetical order.

14 **PART 6. SALES TAX REFUND FOR SEMICONDUCTOR PLANT CLEAN**
15 **ROOM CONSTRUCTION MATERIALS**

16 **SECTION 6.1.** G.S. 105-164.14 is amended by adding a new subsection to
17 read:

18 "**(k) Semiconductor Clean Rooms. – The owner of a facility primarily engaged in**
19 semiconductor manufacturing is allowed an annual refund of sales and use taxes paid by
20 it under this Article on building materials, building supplies, fixtures, and equipment
21 that become a part of the real property of the clean rooms of the facility. Liability
22 incurred indirectly by the owner for sales and use taxes on these items is considered tax
23 paid by the owner. A request for a refund must be in writing and must include any
24 information and documentation required by the Secretary. A request for a refund is due
25 within six months after the end of the bioprocessing facility's fiscal year. Refunds
26 applied for after the due date are barred."

27 **SECTION 6.2.** G.S. 105-164.3 is amended by adding a new subdivision to
28 read:

29 "**§ 105-164.3. Definitions.**

30 The following definitions apply in this Article:

31 ...

32 (38c) Semiconductor manufacturing. – Manufacturing semiconductors and
33 related solid state devices, such as integrated circuits, memory chips,
34 microprocessors, diodes, transistors, and solar cells and other
35 optoelectronic devices."

36 **PART 7. GENERAL PROVISIONS**

37 **SECTION 7.** Part 3 of this act is effective for taxable years beginning on or
38 after January 1, 2004. Parts 4, 5, and 6 of this act become effective January 1, 2004, and
39 apply to sales made on or after that date. The remainder of this act is effective when it
40 becomes law.