

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

**H**

**D**

**HOUSE DRH30524-LCx-180D (02/19)**

Short Title: Create New Jobs/Recruit New Business.-AB (Public)

Sponsors: Representatives Owens, Miner, and G. Allen (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CREATE NEW JOBS BY RECRUITING NEW BUSINESSES,  
GROWING EXISTING BUSINESSES, AND ENCOURAGING  
ENTREPRENEURS.

The General Assembly of North Carolina enacts:

**PART 1. REDUCE CORPORATE INCOME TAX**

**SECTION 1.1.(a)** G.S. 105-130.3 reads as rewritten:

**"§ 105-130.3. Corporations.**

(a) Tax. – A tax is imposed on the State net income of every C Corporation doing business in this State. An S Corporation is not subject to the tax levied in this section. The tax is a percentage of the taxpayer's State net income computed as follows:

**Income Years Beginning Tax**

In 1997	7.5%
In 1998	7.25%
In 1999	7%
After 1999	6.9%.

(b) Exemption. – Before computing the tax in subsection (a) of this section, a Corporation may subtract from State net income the applicable exemption amount. If the corporation is not required to apportion income to this State, the applicable exemption amount is ten thousand dollars (\$10,000). If the corporation is required to apportion income to this State, the applicable exemption amount is the product of the corporation's apportionment fraction determined under G.S. 105-130.4(i) multiplied by ten thousand dollars (\$10,000)."

**SECTION 1.1.(b)** G.S. 105-130.3(b), as amended by this section, reads as rewritten:

"(b) Exemption. – Before computing the tax in subsection (a) of this section, a Corporation may subtract from State net income the applicable exemption amount. If

1 the corporation is not required to apportion income to this State, the applicable  
 2 exemption amount is ~~ten~~twenty thousand dollars ~~(\$10,000)~~(\$20,000). If the  
 3 corporation is required to apportion income to this State, the applicable exemption  
 4 amount is the product of the corporation's apportionment fraction determined under  
 5 G.S. 105 130.4(i) multiplied by ~~ten~~twenty thousand dollars ~~(\$10,000)~~(\$20,000)."

6 **SECTION 1.2.** G.S. 115C-546.1(b) reads as rewritten:

7 "(b) Each calendar quarter, the Secretary of Revenue shall remit to the State  
 8 Treasurer for credit to the Public School Building Capital Fund an amount equal to the  
 9 applicable fraction or percentage provided in the table below of the net collections  
 10 received during the previous quarter by the Department of Revenue under  
 11 G.S. 105-130.3 minus two million five hundred thousand dollars (\$2,500,000). All  
 12 funds deposited in the Public School Building Capital Fund shall be invested as  
 13 provided in G.S. 147-69.2 and G.S. 147-69.3.

<b>Period</b>	<b><u>Fraction or Percentage</u></b>
14 10/1/97 to 9/30/98	One-fifteenth (1/15)
15 10/1/98 to 9/30/99	Two twenty-ninths (2/29)
16 10/1/99 to 9/30/00	One-fourteenth (1/14)
17 <u>10/1/00 to 9/30/04</u> <del>After 9/30/00</del>	Five sixty-ninths (5/69)
18 <u>10/1/04 to 9/30/05</u>	<u>Seven and thirty-six one-hundredths percent (7.36%)</u>
19 <u>After 9/30/05</u>	<u>Seven and forty-four one-hundredths percent (7.44%)</u> "

20 **SECTION 1.3.** Section 1.1(a) of this part becomes effective for taxable  
 21 years beginning on or after January 1, 2004. Section 1.1(b) of this part becomes  
 22 effective for taxable years beginning on or after January 1, 2005. The remainder of this  
 23 part is effective when it becomes law.

24 **PART 2. ONE NORTH CAROLINA FUND**

25 **SECTION 2.1.** Article 10 of Chapter 143B of the General Statutes is  
 26 amended by adding a new section to read:

27 **"§ 143B-434.5. One North Carolina – Industrial Recruitment Competitive**  
 28 **Account.**

29 (a) Purpose. – The purpose of this section is to provide financial assistance to  
 30 those businesses and industries that the Governor considers vital to a healthy and  
 31 growing State economy and that are making significant efforts to establish or expand in  
 32 North Carolina.

33 (b) Creation. – The One North Carolina – Industrial Recruitment Competitive  
 34 Account is created as a special fund in the Department of Commerce. Moneys allocated  
 35 from the Account shall be used only for the following purposes:

- 36 (1) Installation or purchase of equipment.
- 37 (2) Structural repairs, improvements, or renovations of existing buildings  
 38 to be used for expansion.
- 39 (3) Construction of new buildings to be used for expansion.
- 40 (4) Construction of or improvements to new or existing water, sewer, gas,  
 41 or electric utility distribution lines or equipment for existing buildings.
- 42 (5) Construction of or improvements to new or existing water, sewer, gas,  
 43 or electric utility distribution lines or equipment to serve new or  
 44

1           proposed industrial buildings used for manufacturing and industrial  
2           operations.

3           (6) Any other purposes specifically provided by an act of the General  
4           Assembly.

5           (c) Guidelines. – The Governor must adopt guidelines and procedures for the  
6           commitment of moneys from the Account.

7           (d) Reports. – The Department of Commerce must report quarterly to the Joint  
8           Legislative Commission on Governmental Operations and to the Fiscal Research  
9           Division on the commitment, allocation, and use of funds allocated from the One North  
10           Carolina – Industrial Recruitment Competitive Account.

11           (e) Funds. – There is annually appropriated from the General Fund to the One  
12           North Carolina – Industrial Recruitment Competitive Account the sum of twenty  
13           million dollars (\$20,000,000) for each fiscal year. Funds that are unexpended and  
14           unencumbered as of the end of a fiscal year do not revert to the General Fund but  
15           remain available for the purposes provided in this section."

16           **SECTION 2.2.** This part becomes effective July 1, 2004.

17 **PART 3.     JOB DEVELOPMENT INVESTMENT GRANT PROGRAM**

18           **SECTION 3.1.** G.S. 143B-437.62 reads as rewritten:

19           "**§ 143B-437.62. Authority.Expiration.**

20           The authority of the Committee to enter into new agreements ~~begins January 1,~~  
21           ~~2003, and expires January 1, 2005-2009."~~

22           **SECTION 3.2.** G.S. 143B-437.52(b) and (c) read as rewritten:

23           "(b) Cap. – The maximum number of agreements the Committee may enter into  
24           each calendar year is ~~15-25.~~

25           (c) Ceiling. – The maximum amount of total annual liability for grants for  
26           agreements entered into in any single calendar year may not exceed ~~ten million dollars~~  
27           ~~(\$10,000,000).~~twenty million dollars (\$20,000,000). No agreement may be entered into  
28           that, when considered together with other existing agreements entered into during that  
29           calendar year, could cause the State's potential total annual liability for grants entered  
30           into in that calendar year to exceed this amount."

31           **SECTION 3.3.(a).** G.S. 143B-437.58(a) reads as rewritten:

32           "(a) No later than ~~February~~March 1 of each year, for the preceding grant year,  
33           every business that is awarded a grant under this Part shall submit to the Committee a  
34           ~~copy of its State and federal tax returns showing business and nonbusiness income and a~~  
35           report showing withholdings as a condition of its continuation in the grant program. In  
36           addition, the business shall submit to the Committee an annual payroll report showing  
37           the eligible positions that are created during the base years and the new eligible  
38           positions created during each subsequent year of the grant. Upon request of the  
39           Committee, the business shall also submit a copy of its State and federal tax returns.

40           When making a submission under this section, the business must pay the Committee a  
41           fee of one thousand five hundred dollars (\$1,500). The fee is due at the time the  
42           submission is made. The Secretary of Commerce, the Secretary of Revenue, and the  
43           Director of the Office of State Budget and Management shall determine the allocation

1 of the fee imposed by this section among their agencies. The proceeds of the fee are  
2 receipts of the agency to which they are credited."

3 **SECTION 3.3.(b).** This section is effective on and after October 31, 2002.

4 **SECTION 3.4.** G.S. 143B-437.52(d) reads as rewritten:

5 "(d) Measuring Employment. – For the purposes of subdivision (a)(1) of this  
6 section and G.S. 143B-437.57(a)(11), the Committee may designate that the increase or  
7 maintenance of employment is measured at the level of a division or another operating  
8 unit of a business, rather than at the business level, if both of the following conditions  
9 are met:

- 10 (1) The Committee makes an explicit finding that the designation is  
11 necessary to secure the project in this State.  
12 (2) The designation contains terms to ensure that the business does not  
13 create eligible positions by transferring or shifting to the project  
14 existing positions from another project of the business or a related  
15 entity member of the business."

16 **SECTION 3.5.** G.S. 143B-437.01(b1) reads as rewritten:

17 "(b1) Utility Account. – There is created within the Industrial Development Fund a  
18 special account to be known as the Utility Account to provide funds to assist the local  
19 government units of enterprise tier one, two, and three areas, as defined in  
20 G.S. 105-129.3, in creating jobs in eligible industries. The Department of Commerce  
21 shall adopt rules providing for the administration of the program. Except as otherwise  
22 provided in this subsection, those rules shall be consistent with the rules adopted with  
23 respect to the Industrial Development Fund. The rules shall provide that the funds in the  
24 Utility Account may be used only for construction of or improvements to new or  
25 existing water, sewer, gas, telecommunications, high-speed broadband, or electrical  
26 utility distribution lines or equipment for existing or new or proposed industrial  
27 buildings to be used for eligible industrial operations. To be eligible for funding, the  
28 water, sewer, gas, telecommunications, high-speed broadband, or electrical utility lines  
29 or facilities shall be located on the site of the building or, if not located on the site, shall  
30 be directly related to the operation of the specific industrial activity. There shall be no  
31 maximum funding amount per new job to be created or per project.

32 Of the funds credited to the Utility Account pursuant to G.S. 143B-437.61, the  
33 Secretary of Commerce may transfer up to three hundred thousand dollars (\$300,000)  
34 each fiscal year to the Administrative Division to fund positions and expenses necessary  
35 to provide administrative, legal, compliance, and technical support to the Job  
36 Development Incentive Grant program and other incentive programs administered by  
37 the Department of Commerce. Before creating a new position, the Secretary must  
38 consult with the Joint Legislative Commission on Governmental Operations."

39 **SECTION 3.6.** Section 3.5 of this part becomes effective July 1, 2004. The  
40 remainder of this part is effective when it becomes law.

41 **PART 4. SALES TAX REFUNDS AND EXEMPTIONS**

42 **SECTION 4.1.** G.S. 105-164.14(j) reads as rewritten:

43 "(j) Certain Industrial Facilities. – The owner of an eligible facility is allowed an  
44 annual refund of sales and use taxes as provided in this subsection.

- 1 (1) Refund. – The owner of an eligible facility is allowed an annual refund  
2 of sales and use taxes paid by it under this Article on qualified building  
3 materials, building supplies, fixtures, and equipment that become a  
4 part of the real property of the eligible facility. Liability incurred  
5 indirectly by the owner for sales and use taxes on these items is  
6 considered tax paid by the owner. Building materials, building  
7 supplies, fixtures, and equipment are qualified if they are installed in  
8 the construction of the facility. Purchases for subsequent repair,  
9 renovation, or equipment replacement are not qualified.

10 A request for a refund must be in writing and must include any  
11 information and documentation required by the Secretary. A request  
12 for a refund is due within six months after the end of the State's fiscal  
13 year. Refunds applied for after the due date are barred.

- 14 (2) Eligibility. – A facility is eligible under this subsection if it meets both  
15 of the following conditions:

16 a. It is primarily engaged in one of the industries listed in this  
17 subsection.

18 b. The Secretary of Commerce has certified that the owner of the  
19 facility will invest at least one hundred million dollars  
20 (\$100,000,000) of private funds to ~~acquire, construct, and~~  
21 ~~equip~~ construct the facility in this State. For the purpose of this  
22 subsection, costs of construction may include costs of acquiring  
23 and improving land for the facility and costs of equipment for  
24 the facility.

- 25 (3) Industries. – This subsection applies to the following industries:

26 a. Aircraft manufacturing. Aircraft manufacturing means  
27 manufacturing or assembling complete aircraft.

28 a.b. Bioprocessing. Bioprocessing means biomanufacturing or  
29 processing that includes the culture of cells to make commercial  
30 products, the purification of biomolecules from cells, or the use  
31 of these molecules in manufacturing.

32 c. Motor vehicle manufacturing. Motor vehicle manufacturing  
33 means any of the following:

34 1. Manufacturing complete automobiles and light-duty  
35 motor vehicles.

36 2. Manufacturing heavy-duty truck chassis and assembling  
37 complete heavy-duty trucks, buses, heavy-duty motor  
38 homes, and other special purpose heavy-duty motor  
39 vehicles for highway use.

40 3. Manufacturing complete military armored vehicles,  
41 nonarmored military universal carriers, combat tanks,  
42 and specialized components for combat tanks.

1           **b.d.** Pharmaceutical and medicine manufacturing and distribution of  
2           pharmaceuticals and medicines. Pharmaceutical and medicine  
3           manufacturing means any of the following:

- 4           1.     Manufacturing biological and medicinal products. For  
5           the purpose of this sub-subdivision, a biological product  
6           is a preparation that is synthesized from living organisms  
7           or their products and used medically as a diagnostic,  
8           preventive, or therapeutic agent. For the purpose of this  
9           sub-subdivision, bacteria, viruses, and their parts are  
10          considered living organisms.  
11          2.     Processing botanical drugs and herbs by grading,  
12          grinding, and milling.  
13          3.     Isolating active medicinal principals from botanical  
14          drugs and herbs.  
15          4.     Manufacturing pharmaceutical products intended for  
16          internal and external consumption in forms such as  
17          ampoules, tablets, capsules, vials, ointments, powders,  
18          solutions, and suspensions.

19          **e.**     Semiconductor manufacturing. Semiconductor manufacturing  
20          means development and production of semiconductor material,  
21          devices, or components.

- 22       (4)     Forfeiture. – If the owner of an eligible facility does not make the  
23       required minimum investment within five years after the first refund  
24       under this subsection with respect to the facility, the facility loses its  
25       eligibility and the owner forfeits all refunds already received under this  
26       subsection. Upon forfeiture, the owner is liable for tax under this  
27       Article equal to the amount of all past taxes refunded under this  
28       subsection, plus interest at the rate established in G.S. 105-241.1(i),  
29       computed from the date each refund was issued. The tax and interest  
30       are due 30 days after the date of the forfeiture. A person that fails to  
31       pay the tax and interest is subject to the penalties provided in  
32       G.S. 105-236."

33       **SECTION 4.2.** G.S. 105-164.13(45) reads as rewritten:

34       "~~(45) Sales of the following items to an interstate air business, or to a person~~  
35       ~~that leases commercial aircraft to an interstate air business, of tangible~~  
36       ~~personal property that becomes a component part of commercial~~  
37       ~~aircraft during its maintenance, repair, or overhaul. For the purpose of~~  
38       ~~this subdivision, commercial aircraft includes only aircraft that has a~~  
39       ~~certified maximum take-off weight of more than 12,500 pounds and is~~  
40       ~~regularly used to carry for compensation passengers, commercial~~  
41       ~~freight, or individually addressed letters and packages. passenger air~~  
42       ~~carrier or an interstate air courier for use at its hub; aircraft lubricants,~~  
43       ~~aircraft repair parts, and aircraft accessories."~~



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

25 **§ 105-129.51. Administration; sunset.**

26          (a) A taxpayer is eligible for the credit allowed in this Article if it satisfies the  
27 requirements of G.S. 105-129.4(b), (b2), (b3), and (b4) relating to wage standard, health  
28 insurance, environmental impact, and safety and health programs, respectively.

29          (b) This Article is repealed for taxable years beginning on or after January 1,  
30 2014.

31          (c) The credit allowed in this Article and the credits allowed in G.S. 105-129.10  
32 are exclusive. A taxpayer may elect to take only one of the three credits with respect to  
33 its research activities in a taxable year. It may elect a different credit for different  
34 expenses in a subsequent taxable year.

35 **§ 105-129.52. Tax election; cap.**

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

41          (b) Cap. – A credit allowed in this Article may not exceed fifty percent (50%) of  
42 the amount of tax against which it is claimed for the taxable year, reduced by the sum of  
43 all other credits allowed against that tax, except tax payments made by or on behalf of  
44 the taxpayer. This limitation applies to the cumulative amount of credit, including

1 carryforwards, claimed by the taxpayer under this Article against each tax for the  
 2 taxable year. Any unused portion of a credit allowed in this Article may be carried  
 3 forward for the succeeding 15 years.

4 **"§ 105-129.53. Substantiation.**

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

12 **"§ 105-129.54. Reports.**

13 The Department of Revenue must report to the Revenue Laws Study Committee and  
 14 to the Fiscal Research Division of the General Assembly by May 1 of each year the  
 15 following information for the 12-month period ending the preceding December 31:

- 16 (1) The number of taxpayers that claimed each credit allowed in this
- 17 Article.
- 18 (2) The amount of each credit claimed.
- 19 (3) The total cost to the General Fund of the credits claimed.

20 **"§ 105-129.55. Credit for North Carolina research and development.**

21 (a) Qualified North Carolina Research Expenses. – A taxpayer that has qualified  
 22 North Carolina research expenses for the taxable year is allowed a credit equal to a  
 23 percentage of the expenses, determined as provided in this subsection. If part of the  
 24 taxpayer's qualified North Carolina research expenses qualifies under subdivision (2) of  
 25 this subsection and the remainder qualifies under subdivision (3) of this subsection, the  
 26 applicable percentages apply separately to each part of the expenses.

- 27 (1) Small business. – If the taxpayer was a small business as of the last  
 28 day of the taxable year, the applicable percentage is three percent  
 29 (3%).
- 30 (2) Low-tier research. – For expenses with respect to research performed  
 31 in an enterprise tier one, two, or three area, the applicable percentage is  
 32 three percent (3%).
- 33 (3) Other research. – For expenses not covered under subdivision (1) or  
 34 (2) of this subsection, the percentages provided in the table below  
 35 apply to the taxpayer's qualified North Carolina research expenses  
 36 during the taxable year at the following levels:

<u>Expenses Over</u>	<u>Up To</u>	<u>Rate</u>
-0-	\$50 million	1%
\$50 million	\$200 million	2%
\$200 million	=	3%

41 (b) North Carolina University Research Expenses. – A taxpayer that has North  
 42 Carolina university research expenses for the taxable year is allowed a credit equal to  
 43 fifteen percent (15%) of the expenses."

1           **SECTION 6.3.** G.S. 105-129.55(b), as enacted by this part, becomes  
2 effective for taxable years beginning on or after January 1, 2005. The remainder of this  
3 part becomes effective for taxable years beginning on or after January 1, 2004.

4 **PART 7. INDUSTRIAL REVENUE BONDS**

5           **SECTION 7.1.** G.S. 159C-7(b) reads as rewritten:

6           "(b) Findings. – The Secretary shall not approve any proposed industrial project or  
7 pollution control project unless the Secretary makes all of the following, applicable  
8 findings:

- 9           (1) In the case of a proposed industrial project, that  
10           a. ~~That the operator of the proposed project pays, or has agreed to~~  
11           ~~pay thereafter, an average weekly manufacturing wage that (i)~~  
12           ~~is above the average weekly manufacturing wage paid in the~~  
13           ~~county, or (ii) is not less than ten percent (10%) above the~~  
14           ~~average weekly manufacturing wage paid in the State, and~~  
15           b. ~~That the proposed project will not have a materially adverse effect on~~  
16           ~~the environment.~~  
17           (2) In the case of a proposed pollution control project, that the project will  
18           have a materially favorable impact on the environment or will prevent  
19           or diminish materially the impact of pollution which would otherwise  
20           occur.  
21           (2a) In the case of a hazardous waste facility or low-level radioactive waste  
22           facility that is used as a reduction, recovery or recycling facility, that  
23           such project will further the waste management goals of North  
24           Carolina and will not have an adverse effect upon public health or a  
25           significant adverse effect on the environment.  
26           (3) In the case of an industrial project or a pollution control project, except  
27           a pollution control project for a public utility,  
28           a. That the jobs to be generated or saved, directly or indirectly, by  
29           the proposed project will be large enough in number to have a  
30           measurable impact on the area immediately surrounding the  
31           proposed project and will be commensurate with the size and  
32           cost of the proposed project,  
33           b. That the proposed operator of the proposed project has  
34           demonstrated or can demonstrate the capability to operate the  
35           project, and  
36           c. That the financing of the project by the authority will not cause  
37           or result in the abandonment of an existing industrial or  
38           manufacturing facility of the proposed operator or an affiliate  
39           elsewhere within the State unless the facility is to be abandoned  
40           because of obsolescence, lack of available labor in the area, or  
41           site limitations."

42           **SECTION 7.2.** G.S. 159D-7(b) reads as rewritten:

43           "(b) Findings. – The Secretary shall not approve any proposed project unless the  
44 Secretary makes all of the following, applicable findings:

- 1 (1) In the case of a proposed industrial project, that
- 2 a. ~~That the operator of the proposed project pays, or has agreed to~~
- 3 ~~pay thereafter, an average weekly manufacturing wage that (i)~~
- 4 ~~is above the average weekly manufacturing wage paid in the~~
- 5 ~~county in which the project is to be located or (ii) is not less~~
- 6 ~~than ten percent (10%) above the average weekly~~
- 7 ~~manufacturing wage paid in the State; and~~
- 8 b. ~~That the proposed project will not have a materially adverse effect on~~
- 9 ~~the environment.~~
- 10 (2) In the case of a proposed pollution control project, that such project
- 11 will have a materially favorable impact on the environment or will
- 12 prevent or diminish materially the impact of pollution which would
- 13 otherwise occur.
- 14 (2a) In the case of a hazardous waste facility or low-level radioactive waste
- 15 facility that is used as a reduction, recovery or recycling facility, that
- 16 such project will further the waste management goals of North
- 17 Carolina and will not have an adverse effect upon public health or a
- 18 significant adverse effect on the environment.
- 19 (3) In any case (whether the proposed project is an industrial or a pollution
- 20 control project),
- 21 a. That the jobs to be generated or saved, directly or indirectly, by
- 22 the proposed project will be large enough in number to have a
- 23 measurable impact on the area immediately surrounding the
- 24 proposed project and will be commensurate with the size and
- 25 cost of the proposed project,
- 26 b. That the proposed operator of the proposed project has
- 27 demonstrated or can demonstrate the capability to operate such
- 28 project, and
- 29 c. That the financing of such project by the agency will not cause
- 30 or result in the abandonment of an existing industrial or
- 31 manufacturing facility of the proposed operator or an affiliate
- 32 elsewhere within the State unless the facility is to be abandoned
- 33 because of obsolescence, lack of available labor in the area, or
- 34 site limitations."

35 **SECTION 7.3.** This part is effective when it becomes law.

36 **PART 8. UPDATE INTERNAL REVENUE CODE REFERENCE**

37 **SECTION 8.1.** G.S. 105-228.90(b)(1b) reads as rewritten:

38 "(b) Definitions. – The following definitions apply in this Article:

39 ...

40 (1b) Code. – The Internal Revenue Code as enacted as of ~~June 1,~~

41 ~~2003,~~ January 1, 2004, including any provisions enacted as of that date

42 which become effective either before or after that date."

43 **SECTION 8.2.** Notwithstanding Section 8.1 of this part, any amendments to

44 the Internal Revenue Code enacted after June 1, 2003, that increase North Carolina

1 taxable income for the 2003 taxable year become effective for taxable years beginning  
2 on or after January 1, 2004.

3 **SECTION 8.3.** Notwithstanding the time limitations of G.S. 105-266 and  
4 G.S. 105-266.1, a refund for an overpayment of tax resulting from a change in the law  
5 enacted by this part regarding the exclusion of gain on the sale or exchange of a  
6 principal residence by a member of the uniformed services or the Foreign Service of the  
7 United States is timely if a demand for the refund is filed on or before November 11,  
8 2004.

9 **SECTION 8.4.** This part is effective when it becomes law.

10 **PART 9. SITE DEVELOPMENT AND RECRUITMENT**

11 **SECTION 9.1.** G.S. 143B-437.02(b) reads as rewritten:

12 "(b) Fund. – The Site Infrastructure Development Fund is created as a restricted  
13 reserve in the Department of Commerce. ~~The Department may use the funds in the fund~~  
14 ~~only in accordance with this section for site development.~~ Funds in the fund do not  
15 revert but remain available to the Department for these purposes. The Department may  
16 use the funds in the fund only for the following purposes:

17 (1) For site development in accordance with this section.

18 (2) To acquire options and hold options for the purchase of land in  
19 accordance with subsection (m) of this section."

20 **SECTION 9.2.** G.S. 143B-437.02 is amended by adding a new subsection to  
21 read:

22 "(m) Options. – The Department of Commerce may acquire options and hold  
23 options for the purchase of land for an anticipated industrial site if all of the following  
24 conditions are met:

25 (1) The options are necessary to provide a large, regional industrial site  
26 that cannot be assembled by local governments.

27 (2) The acquisition of the options is approved by the Committee."

28 **SECTION 9.3.** G.S. 143B-431(b) reads as rewritten:

29 "(b) The Department of Commerce is authorized to establish and provide for the  
30 operation of North Carolina nonprofit corporations for any of the following purposes:

31 (1) To aid to achieve the purpose of aiding the development of small  
32 businesses.

33 (2) To businesses and to achieve the purposes of the United States Small  
34 Business Administration's 504 Certified Development Company  
35 Program.

36 (3) To acquire options and hold options for the purchase of land under  
37 G.S. 143B-437.02."

38 **SECTION 9.4.** G.S. 143B-431 is amended by adding a new subsection to  
39 read:

40 "(b) The Department of Commerce is authorized to contract for the preparation of  
41 proposals and reports in response to requests for proposals for location or expansion of  
42 major industrial projects."

43 **SECTION 9.5.** This part is effective when it becomes law.