

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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SENATE BILL 1004

Short Title: Luther Jordan Business Development Act.

(Public)

Sponsors: Senators Ballantine; and Shaw.

Referred to: Finance.

April 3, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE TAX INCENTIVES FOR BUSINESSES IN URBAN
3 ENTERPRISE ZONES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** This act is the Senator Luther Jordan Business Development
6 Act.

7 **SECTION 2.** Part 2 of Article 10 of Chapter 143B of the General Statutes is
8 amended by adding a new section to read:

9 "**§ 143B-437.07. Enterprise zones.**

10 (a) Enterprise Zone Defined. – An enterprise zone is a census block group in the
11 most recent federal decennial census that meets both of the following conditions:

12 (1) It is located in a city with a population of 50,000 or more according to
13 the most recent annual population estimates certified by the State
14 Planning Officer.

15 (2) More than thirty percent (30%) of its population is below the poverty
16 level according to the most recent federal decennial census.

17 (b) Annual Certification. – On or before December 31 of each year, the Secretary
18 of Commerce must identify all enterprise zones that meet the conditions of subsection
19 (a) of this section. The Secretary of Commerce must publish a list identifying these
20 enterprise zones on its web site and provide a certified copy of the list to any person
21 who requests it.

22 (c) Incentives Available for Zones. – The following incentives are available to
23 encourage business development within enterprise zones:

24 (1) Refundable income or franchise tax credit for job development in an
25 enterprise zone, as provided in G.S. 105-129.51.

26 (2) Income or franchise tax credit for part of property tax increase due to
27 improvement of enterprise zone property, as provided in G.S.
28 105-129.52.

1 enterprise zones. A position is located in an enterprise zone if more
2 than half of the employee's duties are performed in the zone.

3 (4) Property taxes. – The principal amount of taxes levied and assessed by
4 a taxing unit under Subchapter II of this Chapter. The term does not
5 include costs, penalties, interest, or other charges that may be added to
6 the principal amount.

7 (5) Taxing unit. – Defined in G.S. 105-273.

8 **"§ 105-129.51. Credit for job development in an enterprise zone.**

9 (a) Credit. – A business that hires one or more new enterprise zone employees is
10 allowed a credit for job development in an enterprise zone. The amount of the credit is
11 twenty-five percent (25%) of the business's withholdings under Article 4A of this
12 Chapter from the wages of new enterprise zone employees during the taxable year. The
13 credit is subject to a lifetime cap that allows each taxpayer to claim the credit for 10
14 consecutive taxable years. Each year the credit is allowed, it applies to the business's
15 withholdings under Article 4A of this Chapter from the wages of new enterprise
16 employees first hired in any of the 10 years following the base year.

17 (b) Job Loss. – The credit allowed by this section is conditioned on the continued
18 employment by the taxpayer of a number of full-time employees that represents a net
19 increase as compared to the base year in both the number of the business's employees
20 statewide to the base year and the number of the business's employees in enterprise
21 zones. No credit is allowed for any tax year in which the number of the business's
22 full-time employees in the State or in enterprise zones falls to or below the respective
23 number for the base year.

24 (c) Credit Refundable. – If the credit allowed by this section exceeds the amount
25 of tax against which it is claimed for the taxable year reduced by the sum of all credits
26 allowable, the Secretary must refund the excess to the taxpayer. The refundable excess
27 is governed by the provisions governing a refund of an overpayment of tax by the
28 taxpayer. In computing the amount of tax against which multiple credits are allowed,
29 nonrefundable credits are subtracted before refundable credits.

30 **"§ 105-129.52. Credit for part of property tax increase due to improvement of**
31 **enterprise zone property.**

32 (a) Credit. – A taxpayer is allowed a credit equal to twenty-five percent (25%) of
33 the increase, as compared to the base year, in the amount of property taxes the taxpayer
34 paid at par during the taxable year attributable to an increase in value of real property
35 located in an enterprise zone due to improvements the taxpayer made to the property.
36 The credit is subject to a lifetime cap that allows each taxpayer to claim the credit for 10
37 consecutive years of property taxes. To claim the credit, the taxpayer must provide with
38 the return a copy of the tax receipt for the property taxes for which credit is claimed and
39 any other documentation required by the Secretary. The tax receipt must indicate that
40 the taxes have been paid and must provide the amount and date of the payment.

41 (b) Adjustment. – If a taxing unit gives a taxpayer a credit or refund for, or a
42 grant measured as a percentage of, any of the property taxes for which the taxpayer
43 claimed a credit under this section, the taxpayer must notify the Secretary within 90
44 days. The Secretary must then recompute the credit allowed under this section to

1 exclude the amount attributable to any credits, refunds, and grants and must make any
2 resulting adjustment of tax for the taxable years for which the credit was claimed.

3 (c) Carryforward. – The credit allowed in this section may not exceed the tax
4 against which it is claimed for the taxable year, reduced by the sum of all other credits
5 allowed against that tax, except tax payments made by or on behalf of the taxpayer. Any
6 unused portion of the credit may be carried forward for the succeeding five years.

7 **"§ 105-129.53. Administration.**

8 (a) Tax Election. – The credits allowed in this Article are allowed against the
9 franchise tax levied in Article 3 of this Chapter and the income taxes levied in Article 4
10 of this Chapter. The taxpayer must elect the tax against which each credit will be
11 claimed when filing the return on which the credit is claimed. Any carryforwards of a
12 credit must be claimed against the same tax.

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

21 (c) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the
22 taxpayer was not eligible for the credit for the calendar year in which the taxpayer
23 engaged in the activity for which the credit was claimed. A taxpayer that forfeits a credit
24 under this Article is liable for all past taxes avoided as a result of the credit plus interest
25 at the rate established under G.S. 105-241.1(i), computed from the date the taxes would
26 have been due if the credit had not been allowed. The past taxes and interest are due 30
27 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and
28 interest by the due date is subject to the penalties provided in G.S. 105-236.

29 (d) Reports. – The Department must report to the Revenue Laws Study
30 Committee and to the Fiscal Research Division of the General Assembly by March 1 of
31 each year the following information itemized by taxpayer and by credit for the
32 preceding calendar year:

33 (1) The number of claims for credits under this Article.

34 (2) The distribution by county of the credits claimed.

35 (3) The portion of each job development credit that was refunded because
36 it exceeded the taxpayer's tax liability.

37 (4) The total cost to the General Fund of the credits claimed."

38 **SECTION 6.** This act becomes effective for taxable years beginning on or
39 after January 1, 2004.