

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE DRS65441-LCx-180G (02/19)

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

(Public)

Sponsors: Senators Hoyle, Hartsell and Dalton.

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.

Period	Fraction or Percentage
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> After 9/30/00	Five sixty-ninths (5/69)
18 <u>10/1/04 to 9/30/05</u>	<u>Seven and thirty-six one-hundredths percent</u>
	<u>(7.36%)</u>
19 <u>After 9/30/05</u>	<u>Seven and forty-four one-hundredths percent</u>
	<u>(7.44%)</u> "

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

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

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

30 **"§ 143B-434.5. One North Carolina – Industrial Recruitment Competitive**
 31 **Account.**

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

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

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

1 (5) Construction of or improvements to new or existing water, sewer, gas,
2 or electric utility distribution lines or equipment to serve new or
3 proposed industrial buildings used for manufacturing and industrial
4 operations.

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

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

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

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

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

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

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

21 **"§ 143B-437.62. Authority.Expiration.**

22 The authority of the Committee to enter into new agreements ~~begins January 1,~~
23 ~~2003, and expires January 1, 2005-2009."~~

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

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

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

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

34 "(a) No later than ~~February~~ March 1 of each year, for the preceding grant year,
35 every business that is awarded a grant under this Part shall submit to the Committee a
36 ~~copy of its State and federal tax returns showing business and nonbusiness income and a~~
37 ~~report showing withholdings as a condition of its continuation in the grant program. In~~
38 ~~addition, the business shall submit to the Committee an annual payroll report showing~~
39 ~~the eligible positions that are created during the base years and the new eligible~~
40 ~~positions created during each subsequent year of the grant. Upon request of the~~
41 ~~Committee, the business shall also submit a copy of its State and federal tax returns.~~
42 Payroll and tax information submitted under this subsection is tax information subject to
43 G.S. 105-259. When making a submission under this section, the business must pay the
44 Committee a fee of one thousand five hundred dollars (\$1,500). The fee is due at the

1 time the submission is made. The Secretary of Commerce, the Secretary of Revenue,
2 and the Director of the Office of State Budget and Management shall determine the
3 allocation of the fee imposed by this section among their agencies. The proceeds of the
4 fee are receipts of the agency to which they are credited."

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

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

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

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

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

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

34 There is annually appropriated from the Utility Account to the Department of
35 Commerce the sum of three hundred thousand dollars (\$300,000) to fund positions and
36 expenses in the Administrative Division or the Commerce Finance Center necessary to
37 provide administrative, legal, compliance, and technical support to the Job Development
38 Incentive Grant program and other incentive programs administered by the Department
39 of Commerce. Before creating a new position, the Secretary must consult with the Joint
40 Legislative Commission on Governmental Operations."

41 **SECTION 3.6.** G.S. 143B-437.57 is amended by adding a new subsection to
42 read:

1 "(c) Agreement Binding. – A community economic development agreement is a
2 binding obligation of the State and is not subject to State funds being appropriated by
3 the General Assembly."

4 **SECTION 3.7.** Section 3.3 of this part is effective on and after October 31,
5 2002. Section 3.5 of this part becomes effective July 1, 2004. Section 3.6 of this part is
6 effective on and after January 1, 2003. The remainder of this part is effective when it
7 becomes law.

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

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

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

12 (1) Refund. – The owner of an eligible facility is allowed an annual refund
13 of sales and use taxes paid by it under this Article on qualified building
14 materials, building supplies, fixtures, and equipment that become a
15 part of the real property of the eligible facility. Liability incurred
16 indirectly by the owner for sales and use taxes on these items is
17 considered tax paid by the owner. Building materials, building
18 supplies, fixtures, and equipment are qualified if they are installed in
19 the construction of the facility. Purchases for subsequent repair,
20 renovation, or equipment replacement are not qualified.

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

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

27 a. It is primarily engaged in one of the industries listed in this
28 subsection.

29 b. The Secretary of Commerce has certified that the owner of the
30 facility will invest at least ~~one hundred million dollars~~
31 ~~(\$100,000,000)~~the required amount of private funds to acquire,
32 construct, and equipconstruct the facility in this State. For the
33 purpose of this subsection, costs of construction may include
34 costs of acquiring and improving land for the facility and costs
35 of equipment for the facility. If the facility is located in an
36 enterprise tier one, two, or three area as defined in
37 G.S. 105-129.3, the required amount is fifty million dollars
38 (\$50,000,000). For all other facilities, the required amount is
39 one hundred million dollars (\$100,000,000).

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

41 a. Aircraft manufacturing. Aircraft manufacturing means
42 manufacturing or assembling complete aircraft.

43 a.b. Bioprocessing. Bioprocessing means biomanufacturing or
44 processing that includes the culture of cells to make commercial

- 1 products, the purification of biomolecules from cells, or the use
2 of these molecules in manufacturing.
- 3 c. Motor vehicle manufacturing. Motor vehicle manufacturing
4 means any of the following:
- 5 1. Manufacturing complete automobiles and light-duty
6 motor vehicles.
- 7 2. Manufacturing heavy-duty truck chassis and assembling
8 complete heavy-duty trucks, buses, heavy-duty motor
9 homes, and other special purpose heavy-duty motor
10 vehicles for highway use.
- 11 3. Manufacturing complete military armored vehicles,
12 nonarmored military universal carriers, combat tanks,
13 and specialized components for combat tanks.
- 14 b.d. Pharmaceutical and medicine manufacturing and distribution of
15 pharmaceuticals and medicines. Pharmaceutical and medicine
16 manufacturing means any of the following:
- 17 1. Manufacturing biological and medicinal products. For
18 the purpose of this sub-subdivision, a biological product
19 is a preparation that is synthesized from living organisms
20 or their products and used medically as a diagnostic,
21 preventive, or therapeutic agent. For the purpose of this
22 sub-subdivision, bacteria, viruses, and their parts are
23 considered living organisms.
- 24 2. Processing botanical drugs and herbs by grading,
25 grinding, and milling.
- 26 3. Isolating active medicinal principals from botanical
27 drugs and herbs.
- 28 4. Manufacturing pharmaceutical products intended for
29 internal and external consumption in forms such as
30 ampoules, tablets, capsules, vials, ointments, powders,
31 solutions, and suspensions.
- 32 e. Semiconductor manufacturing. Semiconductor manufacturing
33 means development and production of semiconductor material,
34 devices, or components.
- 35 (4) Forfeiture. – If the owner of an eligible facility does not make the
36 required minimum investment within five years after the first refund
37 under this subsection with respect to the facility, the facility loses its
38 eligibility and the owner forfeits all refunds already received under this
39 subsection. Upon forfeiture, the owner is liable for tax under this
40 Article equal to the amount of all past taxes refunded under this
41 subsection, plus interest at the rate established in G.S. 105-241.1(i),
42 computed from the date each refund was issued. The tax and interest
43 are due 30 days after the date of the forfeiture. A person that fails to

1 pay the tax and interest is subject to the penalties provided in
2 G.S. 105-236."

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

4 "(45) Sales ~~of the following items~~ to an interstate air business, or to a person
5 that leases commercial aircraft to an interstate air business, of tangible
6 personal property that becomes a component part of commercial
7 aircraft during its maintenance, repair, or overhaul. For the purpose of
8 this subdivision, commercial aircraft includes only aircraft that has a
9 certified maximum takeoff weight of more than 12,500 pounds and is
10 regularly used to carry for compensation passengers, commercial
11 freight, or individually addressed letters and packages. ~~passenger air~~
12 carrier or an interstate air courier for use at its hub: aircraft lubricants,
13 aircraft repair parts, and aircraft accessories."

14 **SECTION 4.3.** G.S. 105-164.3 is amended by adding two new subdivisions

15 to read:

16 "(14c) Interstate air business. – An interstate air courier, an interstate freight
17 air carrier, or an interstate passenger air carrier.

18 (15b) Interstate freight air carrier. – A person whose primary business is
19 scheduled freight air transportation, as defined in the North American
20 Industry Classification System adopted by the United States Office of
21 Management and Budget, in interstate commerce."

22 **SECTION 4.4.** The amendment to G.S. 105-164.14(j)(2) made by this part
23 is effective on and after January 1, 2004, and applies to sales made on or after that date.
24 Sections 4.2 and 4.3 of this part become effective October 1, 2004, and apply to sales
25 made on or after that date. The remainder of this part becomes effective July 1, 2004,
26 and applies to sales made on or after that date.

27 **PART 5. QUALIFIED BUSINESS INVESTMENT CREDIT**

28 **SECTION 5.1.** G.S. 105-163.012(b) reads as rewritten:

29 "(b) The total amount of all tax credits allowed to taxpayers under
30 G.S. 105-163.011 for investments made in a calendar year may not exceed ~~six million~~
31 ~~dollars (\$6,000,000)~~ nine million dollars (\$9,000,000). The Secretary of Revenue shall
32 calculate the total amount of tax credits claimed from the applications filed pursuant to
33 G.S. 105-163.011(c). If the total amount of tax credits claimed for investments made in
34 a calendar year exceeds ~~six million dollars (\$6,000,000)~~, this maximum amount, the
35 Secretary shall allow a portion of the credits claimed by allocating ~~a total of six million~~
36 ~~dollars (\$6,000,000)~~ the maximum amount in tax credits in proportion to the size of the
37 credit claimed by each taxpayer."

38 **SECTION 5.2.** G.S. 105-163.015 reads as rewritten:

39 "**§ 105-163.015. Sunset.**

40 This Part is repealed effective for investments made on or after January 1,
41 2007-2009."

42 **SECTION 5.3.** This part becomes effective January 1, 2004.

43 **PART 6. RESEARCH AND DEVELOPMENT TAX CREDIT**

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

5 **"§ 105-129.52. Tax election; cap.**

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

11 (b) Cap. – A credit allowed in this Article may not exceed fifty percent (50%) of
12 the amount of tax against which it is claimed for the taxable year, reduced by the sum of
13 all other credits allowed against that tax, except tax payments made by or on behalf of
14 the taxpayer. This limitation applies to the cumulative amount of credit, including
15 carryforwards, claimed by the taxpayer under this Article against each tax for the
16 taxable year. Any unused portion of a credit allowed in this Article may be carried
17 forward for the succeeding 15 years.

18 **"§ 105-129.53. Substantiation.**

19 To claim a credit allowed by this Article, the taxpayer must provide any information
20 required by the Secretary. Every taxpayer claiming a credit under this Article must
21 maintain and make available for inspection by the Secretary any records the Secretary
22 considers necessary to determine and verify the amount of the credit to which the
23 taxpayer is entitled. The burden of proving eligibility for a credit and the amount of the
24 credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to
25 maintain adequate records or to make them available for inspection.

26 **"§ 105-129.54. Reports.**

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

30 (1) The number of taxpayers that claimed each credit allowed in this
31 Article.

32 (2) The amount of each credit claimed.

33 (3) The total cost to the General Fund of the credits claimed.

34 **"§ 105-129.55. Credit for North Carolina research and development.**

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

41 (1) Small business. – If the taxpayer was a small business as of the last
42 day of the taxable year, the applicable percentage is three percent
43 (3%).

(2) Low-tier research. – For expenses with respect to research performed in an enterprise tier one, two, or three area, the applicable percentage is three percent (3%).

(3) Other research. – For expenses not covered under subdivision (1) or (2) of this subsection, the percentages provided in the table below apply to the taxpayer's qualified North Carolina research expenses during the taxable year at the following levels:

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

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

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

PART 7. INDUSTRIAL REVENUE BONDS

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

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

- (1) In the case of a proposed industrial project, that
 - a. ~~That the operator of the proposed project pays, or has agreed to pay thereafter, an average weekly manufacturing wage that (i) is above the average weekly manufacturing wage paid in the county, or (ii) is not less than ten percent (10%) above the average weekly manufacturing wage paid in the State, and~~
 - b. ~~That the proposed project will not have a materially adverse effect on the environment.~~
- (2) In the case of a proposed pollution control project, that the project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise occur.
- (2a) In the case of a hazardous waste facility or low-level radioactive waste facility that is used as a reduction, recovery or recycling facility, that such project will further the waste management goals of North Carolina and will not have an adverse effect upon public health or a significant adverse effect on the environment.
- (3) In the case of an industrial project or a pollution control project, except a pollution control project for a public utility,
 - a. That the jobs to be generated or saved, directly or indirectly, by the proposed project will be large enough in number to have a measurable impact on the area immediately surrounding the

1 proposed project and will be commensurate with the size and
2 cost of the proposed project,

3 b. That the proposed operator of the proposed project has
4 demonstrated or can demonstrate the capability to operate the
5 project, and

6 c. That the financing of the project by the authority will not cause
7 or result in the abandonment of an existing industrial or
8 manufacturing facility of the proposed operator or an affiliate
9 elsewhere within the State unless the facility is to be abandoned
10 because of obsolescence, lack of available labor in the area, or
11 site limitations."

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

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

15 (1) In the case of a proposed industrial project, that

16 a. ~~That the operator of the proposed project pays, or has agreed to~~
17 ~~pay thereafter, an average weekly manufacturing wage that (i)~~
18 ~~is above the average weekly manufacturing wage paid in the~~
19 ~~county in which the project is to be located or (ii) is not less~~
20 ~~than ten percent (10%) above the average weekly~~
21 ~~manufacturing wage paid in the State; and~~

22 b. ~~That~~ the proposed project will not have a materially adverse effect on
23 the environment.

24 (2) In the case of a proposed pollution control project, that such project
25 will have a materially favorable impact on the environment or will
26 prevent or diminish materially the impact of pollution which would
27 otherwise occur.

28 (2a) In the case of a hazardous waste facility or low-level radioactive waste
29 facility that is used as a reduction, recovery or recycling facility, that
30 such project will further the waste management goals of North
31 Carolina and will not have an adverse effect upon public health or a
32 significant adverse effect on the environment.

33 (3) In any case (whether the proposed project is an industrial or a pollution
34 control project),

35 a. That the jobs to be generated or saved, directly or indirectly, by
36 the proposed project will be large enough in number to have a
37 measurable impact on the area immediately surrounding the
38 proposed project and will be commensurate with the size and
39 cost of the proposed project,

40 b. That the proposed operator of the proposed project has
41 demonstrated or can demonstrate the capability to operate such
42 project, and

43 c. That the financing of such project by the agency will not cause
44 or result in the abandonment of an existing industrial or

1 manufacturing facility of the proposed operator or an affiliate
2 elsewhere within the State unless the facility is to be abandoned
3 because of obsolescence, lack of available labor in the area, or
4 site limitations."

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

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

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

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

9 ...

10 (1b) Code. – The Internal Revenue Code as enacted as of ~~June 1,~~
11 January 1, 2004, including any provisions enacted as of that date
12 which become effective either before or after that date."

13 **SECTION 8.2.** Notwithstanding Section 8.1 of this part, any amendments to
14 the Internal Revenue Code enacted after June 1, 2003, that increase North Carolina
15 taxable income for the 2003 taxable year become effective for taxable years beginning
16 on or after January 1, 2004.

17 **SECTION 8.3.** Notwithstanding the time limitations of G.S. 105-266 and
18 G.S. 105-266.1, a refund for an overpayment of tax resulting from a change in the law
19 enacted by this part regarding the exclusion of gain on the sale or exchange of a
20 principal residence by a member of the uniformed services or the Foreign Service of the
21 United States is timely if a demand for the refund is filed on or before November 11,
22 2004.

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (1) ~~To aid to achieve the purpose of aiding~~ the development of small
2 businesses.
- 3 (2) ~~To businesses and to achieve~~ the purposes of the United States Small
4 Business Administration's 504 Certified Development Company
5 Program.
- 6 (3) To acquire options and hold options for the purchase of land under
7 G.S. 143B-437.02."

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

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

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

14 **PART 10. INFRASTRUCTURE PROGRAM AT RURAL CENTER**

15 **SECTION 10.1.** There is appropriated from the General Fund to the Rural
16 Economic Development Center, Inc., the sum of twenty million dollars (\$20,000,000)
17 for the 2004-2005 fiscal year. The funds shall be used to establish and implement the
18 North Carolina Economic Infrastructure Program. The Program shall consist of the
19 following four areas of investment:

- 20 (1) To provide grants to local governments to construct critical water and
21 wastewater facilities to sites where these facilities will generate private
22 job-creating investment.
- 23 (2) To create a new lending program tailored specifically to the needs of
24 small- and medium-size businesses that have the capacity to grow and
25 create jobs.
- 26 (3) To provide matching grants to local governments in distressed areas
27 and equity investments in public-private ventures that will
28 productively reuse vacant buildings, with priority given to towns with
29 a population of less than 5,000.
- 30 (4) To promote the diversification of North Carolina small farm
31 businesses into value-added production and marketing and to increase
32 opportunities in food and beverage manufacturing and distribution for
33 small farm entrepreneurs.

34 **SECTION 10.2.** The Rural Economic Development Center, Inc., may
35 contract with other State agencies and constituent institutions of The University of
36 North Carolina for certain aspects of the program, including design of program
37 guidelines and evaluation of program results.

38 **SECTION 10.3.** The Rural Economic Development Center, Inc., may use up
39 to five percent (5%) of the funds appropriated in this part to cover its expenses in
40 administering the North Carolina Economic Infrastructure Program.

41 **SECTION 10.4.** The Rural Economic Development Center, Inc., shall report
42 to the Joint Legislative Committee on Governmental Operations on a quarterly basis
43 concerning the progress of the North Carolina Economic Infrastructure Program. It must
44 make its initial report on the program no later than January 15, 2005.

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SECTION 10.5. This part becomes effective July 1, 2004.