

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 1423

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

Sponsors: Senators Hoyle, Hartsell, Dalton; and Hagan.

Referred to: Finance.

May 28, 2004

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE NEW JOBS BY RECRUITING NEW BUSINESSES,
3 GROWING EXISTING BUSINESSES, AND ENCOURAGING
4 ENTREPRENEURS.

5 The General Assembly of North Carolina enacts:

6 **PART 1. REDUCE CORPORATE INCOME TAX**

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

8 "**§ 105-130.3. Corporations.**

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

12 **Income Years Beginning Tax**

13 In 1997	7.5%
14 In 1998	7.25%
15 In 1999	7%
16 After 1999	6.9%.

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

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

26 "(b) Exemption. – Before computing the tax in subsection (a) of this section, a C
27 Corporation may subtract from State net income the applicable exemption amount. If
28 the corporation is not required to apportion income to this State, the applicable
29 exemption amount is ~~ten~~ twenty thousand dollars ~~(\$10,000)~~ (\$20,000). If the

1 corporation is required to apportion income to this State, the applicable exemption
 2 amount is the product of the corporation's apportionment fraction determined under
 3 G.S. 105-130.4(i) multiplied by ~~ten~~ twenty thousand dollars ~~(\$20,000).~~ (\$10,000)."

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

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

Period	Fraction or Percentage
12 10/1/97 to 9/30/98	One-fifteenth (1/15)
13 10/1/98 to 9/30/99	Two twenty-ninths (2/29)
14 10/1/99 to 9/30/00	One-fourteenth (1/14)
15 <u>10/1/00 to 9/30/04</u> After 9/30/00	Five sixty-ninths (5/69)
16 <u>10/1/04 to 9/30/05</u>	<u>Seven and thirty-six one-hundredths percent</u>
	<u>(7.36%)</u>
17 <u>After 9/30/05</u>	<u>Seven and forty-four one-hundredths percent</u>
	<u>(7.44%)</u> "

18
 19
 20
 21 **SECTION 1.3.** Section 1.1(a) of this part becomes effective for taxable
 22 years beginning on or after January 1, 2004. Section 1.1(b) of this part becomes
 23 effective for taxable years beginning on or after January 1, 2005. The remainder of this
 24 part is effective when it becomes law.

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

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

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

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

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

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

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 Payroll and tax information submitted under this subsection is tax information subject to
41 G.S. 105-259. When making a submission under this section, the business must pay the
42 Committee a fee of one thousand five hundred dollars (\$1,500). The fee is due at the
43 time the submission is made. The Secretary of Commerce, the Secretary of Revenue,
44 and the Director of the Office of State Budget and Management shall determine the

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

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

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

1 **SECTION 3.7.** Section 3.3 of this part is effective on and after October 31,
2 2002. Section 3.5 of this part becomes effective July 1, 2004. Section 3.6 of this part is
3 effective on and after January 1, 2003. The remainder of this part is effective when it
4 becomes law.

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

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

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

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

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

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

24 a. It is primarily engaged in one of the industries listed in this
25 subsection.

26 b. The Secretary of Commerce has certified that the owner of the
27 facility will invest at least ~~one hundred million dollars~~
28 ~~(\$100,000,000)~~ the required amount of private funds to ~~acquire,~~
29 ~~construct, and equip~~ construct the facility in this State. For the
30 purpose of this subsection, costs of construction may include
31 costs of acquiring and improving land for the facility and costs
32 of equipment for the facility. If the facility is located in an
33 enterprise tier one, two, or three area as defined in
34 G.S. 105-129.3, the required amount is fifty million dollars
35 (\$50,000,000). For all other facilities, the required amount is
36 one hundred million dollars (\$100,000,000).

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

38 a. Aircraft manufacturing. Aircraft manufacturing means
39 manufacturing or assembling complete aircraft.

40 a.b. Bioprocessing. Bioprocessing means biomanufacturing or
41 processing that includes the culture of cells to make commercial
42 products, the purification of biomolecules from cells, or the use
43 of these molecules in manufacturing.

- 1 c. Motor vehicle manufacturing. Motor vehicle manufacturing
2 means any of the following:
3 1. Manufacturing complete automobiles and light-duty
4 motor vehicles.
5 2. Manufacturing heavy-duty truck chassis and assembling
6 complete heavy-duty trucks, buses, heavy-duty motor
7 homes, and other special purpose heavy-duty motor
8 vehicles for highway use.
9 3. Manufacturing complete military armored vehicles,
10 nonarmored military universal carriers, combat tanks,
11 and specialized components for combat tanks.
12 b.d. Pharmaceutical and medicine manufacturing and distribution of
13 pharmaceuticals and medicines. Pharmaceutical and medicine
14 manufacturing means any of the following:
15 1. Manufacturing biological and medicinal products. For
16 the purpose of this sub-subdivision, a biological product
17 is a preparation that is synthesized from living organisms
18 or their products and used medically as a diagnostic,
19 preventive, or therapeutic agent. For the purpose of this
20 sub-subdivision, bacteria, viruses, and their parts are
21 considered living organisms.
22 2. Processing botanical drugs and herbs by grading,
23 grinding, and milling.
24 3. Isolating active medicinal principals from botanical
25 drugs and herbs.
26 4. Manufacturing pharmaceutical products intended for
27 internal and external consumption in forms such as
28 ampoules, tablets, capsules, vials, ointments, powders,
29 solutions, and suspensions.
30 e. Semiconductor manufacturing. Semiconductor manufacturing
31 means development and production of semiconductor material,
32 devices, or components.
33 (4) Forfeiture. – If the owner of an eligible facility does not make the
34 required minimum investment within five years after the first refund
35 under this subsection with respect to the facility, the facility loses its
36 eligibility and the owner forfeits all refunds already received under this
37 subsection. Upon forfeiture, the owner is liable for tax under this
38 Article equal to the amount of all past taxes refunded under this
39 subsection, plus interest at the rate established in G.S. 105-241.1(i),
40 computed from the date each refund was issued. The tax and interest
41 are due 30 days after the date of the forfeiture. A person that fails to
42 pay the tax and interest is subject to the penalties provided in
43 G.S. 105-236."

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

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

11 **SECTION 4.3.** G.S. 105-164.3 is amended by adding two new subdivisions
12 to read:

13 "(14c) Interstate air business. – An interstate air courier, an interstate freight
14 air carrier, or an interstate passenger air carrier.

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

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

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

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

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

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

36 "**§ 105-163.015. Sunset.**

37 This Part is repealed effective for investments made on or after January 1,
38 ~~2007-2009."~~

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

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

41 **SECTION 6.1.** G.S. 105-129.10 is amended by adding a new subsection to
42 read:

1 "(d) The credits allowed in this section and the credit allowed in Article 3F of this
2 Chapter are exclusive. A taxpayer may elect to take only one of the three credits with
3 respect to its research activities in a taxable year."

4 **SECTION 6.2.** Chapter 105 of the General Statutes is amended by adding a
5 new Article to read:

6 "Article 3F.

7 "Research and Development.

8 **"§ 105-129.50. Definitions.**

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

11 (1) through (4) Reserved.

12 (5) North Carolina research university. – An institution of higher
13 education that meets one or both of the following conditions:

14 a. It is located in North Carolina and is classified as one of the
15 following in the most recent edition of 'A Classification of
16 Institutions of Higher Education', the official report of The
17 Carnegie Foundation for the Advancement of Teaching:

18 1. Doctoral/Research Universities, Extensive or Intensive.

19 2. Masters Colleges and Universities, I or II.

20 3. Baccalaureate Colleges, Liberal Arts or General.

21 b. It is a constituent institution of The University of North
22 Carolina.

23 (6) North Carolina university research expenses. – Any amount paid or
24 incurred to a North Carolina research university for qualified research
25 performed in this State or basic research performed in this State.

26 (7) Period of measurement. – Defined in the Small Business Size
27 Regulations of the federal Small Business Administration.

28 (8) Qualified North Carolina research expenses. – Qualified research
29 expenses for research performed in this State.

30 (9) Receipts. – Defined in the Small Business Size Regulations of the
31 federal Small Business Administration.

32 (10) Related person. – Defined in G.S. 105-163.010.

33 (11) Small business. – A business whose annual receipts, combined with
34 the annual receipts of all related persons, for the applicable period of
35 measurement did not exceed one million dollars (\$1,000,000).

36 **"§ 105-129.51. Administration; sunset.**

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

40 (b) This Article is repealed for taxable years beginning on or after January 1,
41 2014.

42 (c) The credit allowed in this Article and the credits allowed in G.S. 105-129.10
43 are exclusive. A taxpayer may elect to take only one of the three credits with respect to

1 its research activities in a taxable year. It may elect a different credit for different
2 expenses in a subsequent taxable year.

3 **"§ 105-129.52. Tax election; cap.**

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

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

16 **"§ 105-129.53. Substantiation.**

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

24 **"§ 105-129.54. Reports.**

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

- 28 (1) The number of taxpayers that claimed each credit allowed in this
29 Article.
- 30 (2) The amount of each credit claimed.
- 31 (3) The total cost to the General Fund of the credits claimed.

32 **"§ 105-129.55. Credit for North Carolina research and development.**

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

- 39 (1) Small business. – If the taxpayer was a small business as of the last
40 day of the taxable year, the applicable percentage is three percent
41 (3%).
- 42 (2) Low-tier research. – For expenses with respect to research performed
43 in an enterprise tier one, two, or three area, the applicable percentage is
44 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 proposed project and will be commensurate with the size and cost of the proposed project,

- 1 b. That the proposed operator of the proposed project has
2 demonstrated or can demonstrate the capability to operate the
3 project, and
4 c. That the financing of the project by the authority will not cause
5 or result in the abandonment of an existing industrial or
6 manufacturing facility of the proposed operator or an affiliate
7 elsewhere within the State unless the facility is to be abandoned
8 because of obsolescence, lack of available labor in the area, or
9 site limitations."

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

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

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

1 because of obsolescence, lack of available labor in the area, or
2 site limitations."

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

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

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

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

7 ...

8 (1b) Code. – The Internal Revenue Code as enacted as of ~~June 1,~~
9 2003, January 1, 2004, including any provisions enacted as of that date
10 which become effective either before or after that date."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (1) To aid to achieve the purpose of aiding the development of small
44 businesses.

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

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

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

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

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

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

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

18 (1) To provide grants to local governments to construct critical water and
19 wastewater facilities to sites where these facilities will generate private
20 job-creating investment.

21 (2) To create a new lending program tailored specifically to the needs of
22 small- and medium-size businesses that have the capacity to grow and
23 create jobs.

24 (3) To provide matching grants to local governments in distressed areas
25 and equity investments in public-private ventures that will
26 productively reuse vacant buildings, with priority given to towns with
27 a population of less than 5,000.

28 (4) To promote the diversification of North Carolina small farm
29 businesses into value-added production and marketing and to increase
30 opportunities in food and beverage manufacturing and distribution for
31 small farm entrepreneurs.

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

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

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

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