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SENATE BILL DRS15248-MCf-163

Short Title: Clean Energy Workforce & Innovation Act. (Public)

Sponsors: Senators Theodros and Salvador (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE CLEAN ENERGY WORKFORCE AND INNOVATION ACT.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.(a)** Article 10 of Chapter 143B of the General Statutes is amended by
5 adding a new Part to read:

6 "Part 8A. Clean Energy.

7 **"§ 143B-451.2. Clean energy workforce and innovation.**

8 (a) Title, purpose. – This Part shall be known and may be cited as "The Clean Energy
9 Workforce and Innovation Act". The purpose of this Act is to accomplish the following:

- 10 (1) Develop a skilled workforce in this State to support the deployment of
11 advanced nuclear energy, small modular reactors, and related clean energy
12 technologies and facilities.
13 (2) Accelerate clean energy innovation by streamlining regulatory processes for
14 small modular reactors and associated infrastructure, ensuring North Carolina
15 remains a leader in reliable, low-carbon energy.
16 (3) Expand economic opportunities in energy transition by investing in workforce
17 training, apprenticeships, and educational partnerships that equip North
18 Carolinians for high-paying, sustainable careers.
19 (4) Ensure equitable access to clean energy jobs by prioritizing workforce
20 development programs in communities affected by fossil fuel plant closures,
21 economically distressed areas, and underrepresented groups in the energy
22 sector.

23 (b) Definitions. – The following definitions apply in this Part.

- 24 (1) Department. – The Department of Commerce.
25 (2) Energy sector skilled trade. – Operator certification, welding, precision
26 machining, grid integration and energy storage expertise, nuclear fuel
27 management, electrical work, instrumentation and control systems
28 capabilities, cyber security, reactor maintenance, or any other trade or
29 occupation related to nuclear energy facilities or generation that does not
30 require a four-year college degree.
31 (3) Institution of higher education. – Any public university, community college,
32 or technical training school in North Carolina offering programs in nuclear
33 technology, engineering, or energy-sector skilled trades.
34 (4) Small Modular Reactor (SMR). – A nuclear reactor with a capacity of less
35 than 500 megawatts per unit, designed for modular construction and advanced
36 safety features, including passive safety systems using natural cooling



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mechanisms to prevent overheating; underground or sealed containment systems; automatic fail-safe shutdown mechanisms; smaller core and lower power density componentry; fuel choices that are accident tolerant or capable of withstanding higher temperatures with lower risk; and security measures reducing risks from sabotage, aircraft impact, or other external threats.

(c) Clean Energy Workforce Development Program. – There is established in the Department of Commerce the Clean Energy Workforce Development Program (Program). The Program shall be comprised of the following elements:

(1) Workforce development. – In conjunction with The University of North Carolina and the Community Colleges System Office, the Department shall develop a grant program for institutions of higher education in this State to expedite and facilitate the expansion of nuclear technology and clean energy training programs. The Department shall (i) develop guidelines for an application process for institutions of higher education for the allocation of funds granted pursuant to this section and (ii) prioritize awarding funds based on the degree to which the institution has shown in the application the following:

- a. A viable plan to partner and create learning synergies with industry leaders and employers to align training and real-world clean energy needs.
- b. The funding will be used for nuclear energy workforce needs, including energy sector skilled trades.

(2) Apprenticeship development. – In conjunction with The University of North Carolina and the Community Colleges System Office, the Department shall develop a grant program for subsidizing the costs of qualifying employers for paid apprenticeship positions for students in institutions of higher education in the State in order to promote direct-to-hire pathways for participating students to be prepared for and immediately fill nuclear energy industry workforce needs. A qualifying employer is an employer currently operating nuclear energy facilities in the State or in another state and construction companies and other entities identified by such employers as having the technical capabilities necessary to design, construct, and maintain nuclear reactors and equipment for nuclear energy generation. The Department shall (i) develop guidelines for an application process for qualifying employers for the allocation of funds granted pursuant to this section and (ii) prioritize awarding funds based on the degree to which the employer has shown, in the application or otherwise, the following:

- a. A viable plan to partner and create learning synergies and pre- and post-graduation employment opportunities for student attending institutions of higher education in the State.
- b. The funding will be used to subsidize the total cost of the paid apprenticeship program created by the qualifying employer and stipends to participating apprentices to offset living costs.
- c. The funding will be used to benefit economically disadvantaged students. For purposes of this sub-subdivision, an economically disadvantaged student is one that meets any one or more of the following:
 1. Qualifies for and receives a federal Pell Grant.
 2. Is a dependent in a household with income below (i) eighty percent (80%) of the state median income or (i) the federal poverty line.

3. Is a recipient of Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF).
 4. Is a child of parents or guardians who did not earn a postsecondary degree.
 5. Residing in a development tier one area, as defined in G.S. 143B-437.08.
 6. Has been displaced, and is transitioning, from a career in coal, oil, or gas industry jobs and is pursuing educational advancement for nuclear energy career needs.
- d. A history of hiring participating apprentices, economically disadvantaged employment applicants, and students graduating in relevant fields from institutions of higher education.
- (3) Educational assistance. – In conjunction with The University of North Carolina and the Community Colleges System Office, the Department shall develop a scholarship program for students attending institutions of higher education in this State to offset the cost of tuition and materials for degrees or certifications in nuclear engineering, electrical engineering, energy sector skilled trades, and public health radiation protection programs. The Department shall (i) develop guidelines for an application process for students of institutions of higher education for the allocation of funds granted pursuant to this section and (ii) prioritize awarding funds based the degree of need in the State for the designated coursework, degree, or certification for which the scholarship is sought. The scholarship assistance program shall include financial assistance for workers in the energy sector that have been displaced by the closure of a coal-fired plant that are seeking to transition skills to nuclear energy generation and technologies.
- (4) Veteran initiative. – In conjunction with The University of North Carolina, the Community Colleges System Office, and the Department of Military and Veterans Affairs, the Department shall develop a fast-track initiative for qualifying veterans to facilitate and expedite training, licensure, and transition into civilian nuclear energy careers. A qualifying veteran is a veteran of a branch of the armed forces of the United States, with priority being given to those having naval or other nuclear operations experience. The initiative shall include a scholarship component for veterans attending institutions of higher education in this State to offset the cost of relocation, tuition and materials for degrees, licensure, or certifications in nuclear engineering and related nuclear technologies, certification exams, and specialized career coaching. The Department shall (i) develop guidelines for an application process for qualifying veterans for the allocation of funds granted pursuant to this section and (ii) prioritize awarding funds based on relevance of nuclear operations in military service and financial- and merit-based factors determined by the Department.

SECTION 1.(b) Nuclear Innovation Zones. – The Department of Commerce, in collaboration with the Department of Environmental Quality, the Utilities Commission, and any other State agency or entity the Department of Commerce deems relevant, shall conduct a sbtudy on the feasibility and potential benefits of establishing Nuclear Innovation Zones in the State. This study shall include the following:

- (1) The feasibility of attracting investment and job creation through regulatory streamlining of permitting nuclear energy production, including related manufacturing sectors.
- (2) Potential incentives to encourage private-sector participation.

- (3) A review of existing State and federal regulations affecting nuclear energy development and possible reforms to streamline approval processes while ensuring public safety.
- (4) Site Selection Criteria for potential nuclear energy generating facilities, including identification of key factors in determining suitable locations such as proximity to existing energy infrastructure, workforce availability and training programs, and community impact and local government considerations.
- (5) A review of environmental best practices and necessary safeguards and an evaluation of potential impacts on air, water, and land use.
- (6) A survey of other states' efforts, including examination of successful nuclear energy development policies and recommendations based on best practices and lessons learned.
- (7) A review of potential State-backed financial mechanisms for nuclear deployment.

The Department of Commerce shall submit a final report with findings and recommendations to the Joint Legislative Commission on Energy Policy and the General Assembly no later than December 31, 2025.

SECTION 2. Article 3J of Chapter 105 of the General Statutes is reenacted as it existed immediately before its repeal and reads as rewritten:

"Article 3J.

Tax Credits for Growing Businesses.

~~"§ 105-129.80. Legislative findings.~~

~~The General Assembly finds that:~~

- ~~(1) It is the policy of the State of North Carolina to stimulate economic activity and to create new jobs for the citizens of the State by encouraging and promoting the expansion of existing business and industry within the State and by recruiting and attracting new business and industry to the State.~~
- ~~(2) Both short-term and long-term economic trends at the State, national, and international levels have made the successful implementation of the State's economic development policy and programs both more critical and more challenging, and the decline in the State's traditional industries, and the resulting adverse impact upon the State and its citizens, have been exacerbated in recent years by adverse national and State economic trends that contribute to the reduction in the State's industrial base and that inhibit the State's ability to sustain or attract new and expanding businesses.~~
- ~~(3) The economic condition of the State is not static, and recent changes in the State's economic condition have created economic distress that requires a reevaluation of certain existing State programs and the enactment of a new program as provided in this Article that is designed to stimulate new economic activity and to create new jobs within the State.~~
- ~~(4) The enactment of this Article is necessary to stimulate the economy and create new jobs in North Carolina, and this Article will promote the general welfare and confer, as its primary purpose and effect, benefits on citizens throughout the State through the creation of new jobs, an enlargement of the overall tax base, an expansion and diversification of the State's industrial base, and an increase in revenue to the State and its political subdivisions.~~
- ~~(5) The purpose of this Article is to stimulate economic activity and to create new jobs within the State.~~
- ~~(6) The State is in need of a focused tax credit program that encourages and facilitates economic growth and development within the State.~~

- (7) ~~The resources of the State are not evenly distributed throughout the State and different communities have different abilities and needs in attracting and maintaining new and expanding business and industry.~~

"§ 105-129.81. (See notes) Definitions.

The following definitions apply in this Article:

- (1) ~~Agrarian growth zone. — Defined in G.S. 143B-437.010.~~

- (2) ~~Air courier services. — Defined in G.S. 143B-437.01.~~

- (3) ~~Aircraft maintenance and repair. — The provision of specialized maintenance or repair services for commercial aircraft or the rebuilding of commercial aircraft.~~

- (4) Business property. — Tangible personal property that is used in a business and capitalized by the taxpayer for tax purposes under the Code.

- (4a) Clean energy manufacturing. — The manufacture in this State of small modular reactors, small modular reactor components, reactor modules, or nuclear fuel assemblies.

- ~~(5) Company headquarters. — Defined in G.S. 143B-437.01.~~

- (6) Cost. — In the case of property owned by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code. In the case of property the taxpayer leases from another, cost is value as determined pursuant to G.S. 105-130.4(j)(2).

- ~~(7) Customer service call center. — The provision of support service by a business to its customers by telephone or other electronic means to support products or services of the business. For the purposes of this definition, an establishment is primarily engaged in providing support services by telephone or other electronic means only if at least sixty percent (60%) of its calls are incoming or at least sixty percent (60%) of its other electronic communications are initiated by its customers.~~

- (8) Development tier. — The classification assigned to an area pursuant to G.S. 143B-437.08.

- ~~(9) Electronic shopping and mail order houses. — An industry in electronic shopping and mail order houses industry group 4541 as defined by NAICS.~~

- (9a) Environmental disqualifying event. — Any of the following occurrences:

- a. During the tax year in which the activity occurred for which a credit is being claimed, a civil penalty was assessed against the taxpayer by the Department of Environmental Quality for failure to comply with an order issued by an agency of the Department to abate or remediate a violation of any program administered by the agency.
- b. During the tax year in which the activity occurred for which a credit is being claimed or in the prior two tax years, any of the following:
 1. A finding was made by the Department of Environmental Quality that the taxpayer knowingly and willfully, as defined in G.S. 143-215.6B, including all limitations thereto, committed a violation of any program implemented by an agency of the Department.
 2. An assessment for damages to fish or wildlife pursuant to G.S. 143-215.3(a)(7) was made against the taxpayer.
 3. A judicial order for injunctive relief was issued against the taxpayer in connection with a violation of any program implemented by an agency of the Department of Environmental Quality.

- c. During the tax year in which the activity occurred for which the credit is being claimed or in the prior four tax years, a criminal penalty was imposed on the taxpayer in connection with a violation of any program implemented by an agency of the Department of Environmental Quality.
- (10) ~~Establishment. — Defined in 29 C.F.R. § 1904.46, as it existed on January 1, 2002.~~
- (11) Full-time job. — A position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year. A full-time employee is an employee who holds a full-time job.
- (12) ~~Hub. — Defined in G.S. 105-164.3.~~
- (13) ~~Information technology and services. — Defined in G.S. 143B-437.01.~~
- (14) Long-term unemployed worker. — An individual that has been totally unemployed for at least the preceding 26 consecutive weeks as evidenced by records maintained by the Division of Employment Security (DES) of the Department of Commerce.
- (15) Manufacturing. — Defined in G.S. 143B-437.01.
- (16) ~~Motorsports facility. — A motorsports racetrack classified in the United States racetrack national industry 711212, as defined by NAICS.~~
- (17) ~~Motorsports racing team. — A professional racing team primarily engaged in the research and development, design, manufacture, repair, maintenance, and operation of motor vehicles used in live motorsports racing events before a paying audience.~~
- (18) NAICS. — Defined in G.S. 105-228.90.
- (19) New job. — A full-time job that represents a net increase in the number of the taxpayer's employees statewide. A new employee is an employee who holds a new job. The term does not include a job currently located in this State that is transferred to the business from a related member of the business.
- (20) Overdue tax debt. — Defined in G.S. 105-243.1.
- (20a) ~~Port enhancement zone. — Defined in G.S. 143B-437.013.~~
- (21) Purchase. — Defined in section 179 of the Code.
- (21a) Qualifying clean energy manufacturer. — A manufacturer of small modular reactors, small modular reactor components, reactor modules, or nuclear fuel assemblies located in this State.
- (22) Related member. — Defined in G.S. 105-130.7A.
- (23) ~~Research and development. — An industry in scientific research and development services industry group 5417 as defined by NAICS.~~
- (24) ~~Urban progress zone. — The classification assigned to an area pursuant to G.S. 143B-437.09.~~
- (25) ~~Warehousing. — Defined in G.S. 143B-437.01.~~
- (26) ~~Wholesale trade. — Defined in G.S. 143B-437.01.~~
- "§ 105-129.82. (See notes) Sunset; studies.**
- (a) Sunset. — This Article is repealed effective for business activities that occur on or after January 1, 2014.
- (b) ~~Equity Study. — The Department of Commerce shall study the effect of the tax incentives provided in this Article on tax equity. This study shall include the following:~~
- (1) ~~Reexamining the formula in G.S. 143B-437.08 used to define development tiers, to include consideration of alternative measures for more equitable treatment of counties in similar economic circumstances.~~
- (2) ~~Considering whether the assignment of tiers and the applicable thresholds are equitable for smaller counties.~~

~~(3) Compiling any available data on whether expanding North Carolina businesses receive fewer benefits than out-of-State businesses that locate to North Carolina.~~

(c) Impact Study. – The Department of Commerce shall study the effectiveness of the tax incentives provided in this Article. This study shall include:

(1) Studying the distribution of tax incentives across new and expanding businesses and industries.

(2) Examining data on economic recruitment for the period from 2005 through the most recent year for which data are available by county, by industry type, by size of investment, and by number of jobs, and other relevant information to determine the pattern of business locations and expansions before and after the enactment of this Article.

(3) Measuring the direct costs and benefits of the tax incentives.

(4) Compiling available information on the current use of incentives by other states and whether that use is increasing or declining.

(d) Report. – The Department of Commerce shall report the results of these studies and its recommendations to the General Assembly biennially with the first report due by June 1, ~~2009-2026.~~

"§ 105-129.83. Eligibility; forfeiture.

(a) Eligible Business. – A taxpayer is eligible for a credit under this Article only with respect to activities occurring at ~~an establishment~~ a location whose primary activity is ~~listed in this subsection.~~ clean energy manufacturing. The primary activity of ~~an establishment~~ a location is determined based on the ~~establishment's~~ location's principal product or group of products produced or distributed, or services rendered.

~~(1) Air courier services hub.~~

~~(2) Aircraft maintenance and repair.~~

~~(3) Company headquarters, but only if the additional eligibility requirements of subsection (b) of this section are satisfied.~~

~~(4) Customer service call centers.~~

~~(5) Electronic shopping and mail order houses.~~

~~(6) Information technology and services.~~

~~(7) Manufacturing.~~

~~(8) Motorsports facility.~~

~~(9) Motorsports racing team.~~

~~(10) Research and development.~~

~~(11) Warehousing.~~

~~(12) Wholesale trade.~~

~~(b) Company Headquarters Eligibility. — A taxpayer is eligible for a credit under this Article with respect to a company headquarters only if the taxpayer creates at least 75 new jobs at the company headquarters within a 24-month period. A taxpayer that meets this job creation requirement is eligible for credits under this Article with respect to the company headquarters for three taxable years beginning with the year in which the job creation requirement is satisfied. A taxpayer that creates an additional 75 new jobs at the company headquarters in a 24-month period during a three-year eligibility period does not qualify for any extended eligibility period. However, a taxpayer that creates an additional 75 new jobs at the company headquarters in a 24-month period after the completion of a three-year eligibility period is eligible for credits with respect to the company headquarters for an additional three taxable years beginning in the year in which the additional job creation requirement is satisfied.~~

(c) Wage Standard. – A taxpayer is eligible for a credit under this Article in a development tier two or three area only if the taxpayer satisfies a wage standard. The taxpayer is not required to satisfy a wage standard if the activity occurs in a development tier one area. Jobs

that are located within an urban progress zone, a port enhancement zone, or an agrarian growth zone but not in a development tier one area satisfy the wage standard if they pay an average weekly wage that is at least equal to ninety percent (90%) of the lesser of the average wage for all insured private employers in the State and the average wage for all insured private employers in the county. All other jobs satisfy the wage standard if they pay an average weekly wage that is at least equal to the lesser of one hundred ten percent (110%) of the average wage for all insured private employers in the State and ninety percent (90%) of the average wage for all insured private employers in the county. The Department of Commerce shall annually publish the wage standard for each county.

In making the wage calculation, the taxpayer shall include any jobs that were filled for at least 1,600 hours during the calendar year the taxpayer engages in the activity that qualifies for the credit even if those jobs are not filled at the time the taxpayer claims the credit. For a taxpayer with a taxable year other than a calendar year, the taxpayer shall use the wage standard for the calendar year in which the taxable year begins. Only full-time jobs are included when making the wage calculation.

(d) Health Insurance. – A taxpayer is eligible for a credit under this Article only if the taxpayer provides health insurance for all of the full-time jobs at the establishment location with respect to which the credit is claimed when the taxpayer engages in the activity that qualifies for the credit. For the purposes of this subsection, a taxpayer provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125. requirements for small group health benefit plans under State or federal law.

Each year that a taxpayer claims a credit ~~or carryforward of a credit~~ allowed under this Article, the taxpayer shall provide with the tax return the taxpayer's certification that the taxpayer continues to provide health insurance for all the jobs at the establishment location with respect to which the credit was claimed. If the taxpayer ceases to provide health insurance for the jobs during a taxable year, the credit ~~expires, and the taxpayer may not take any remaining installment or carryforward of the credit.~~ expires.

(e) Environmental Impact. – A taxpayer is eligible for a credit allowed under this Article only if the taxpayer certifies that, at the time the taxpayer claims the credit, there has not been a final determination unfavorable to the taxpayer with respect to an environmental disqualifying event. For the purposes of this section, a "final determination unfavorable to the taxpayer" occurs when there is no further opportunity for the taxpayer to seek administrative or judicial appeal, review, certiorari, or rehearing of the environmental disqualifying event and the disqualifying event has not been reversed or withdrawn. No later than January 31 of each year, the Secretary of Environmental Quality shall provide an annual report to the Department listing all environmental disqualifying events for which a final determination unfavorable to the taxpayer was made in the prior calendar year and shall provide the name of the taxpayer involved and the date that the disqualifying event occurred.

(f) Safety and Health Programs. – A taxpayer is eligible for a credit allowed under this Article only if the taxpayer certifies that, as of the time the taxpayer claims the credit, at the establishment location with respect to which the credit is claimed, the taxpayer has no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations. For the purposes of this subsection, "serious violation" has the same meaning as in G.S. 95-127. The Commissioner of Labor shall notify the Department of Revenue annually of all employers who have had these citations become final orders within the past three years.

(g) Overdue Tax Debts. – A taxpayer is not eligible for a credit allowed under this Article if, at the time the taxpayer claims ~~the credit or an installment or carryforward of the credit,~~

1 taxpayer has received a notice of an overdue tax debt and that overdue tax debt has not been
2 satisfied or otherwise resolved.

3 (h) Expiration. – If, during the period that installments of a credit under this Article
4 accrue, the taxpayer is no longer engaged in ~~one of the types of the~~ business described in
5 subsection (a) of this section at the establishment location for which the credit was claimed, the
6 credit expires. ~~If, during the period that installments of a credit under this Article accrue, the~~
7 ~~number of jobs of an eligible company headquarters falls below the minimum number required~~
8 ~~under subsection (b) of this section, any credit associated with that company headquarters~~
9 ~~expires.~~ When a credit expires, the taxpayer may not take any remaining installments of the
10 credit. The taxpayer may, however, take the portion of an installment that accrued in a previous
11 year and was carried forward to the extent permitted under G.S. 105-129.84. A change in the
12 development tier designation of the location of ~~an establishment~~ a location does not result in
13 expiration of a credit under this Article.

14 (i) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the taxpayer was
15 not eligible for the credit for the calendar year in which the taxpayer engaged in the activity for
16 which the credit was claimed. A taxpayer forfeits a credit previously allowed under this Article
17 if a final determination unfavorable to the taxpayer with respect to an environmental
18 disqualifying event is made that is applicable to the year in which the activity occurred for which
19 the credit was claimed. In addition, a taxpayer forfeits a credit ~~for investment in real property~~
20 ~~under G.S. 105-129.89~~ if the taxpayer fails to timely create the number of required new jobs or
21 to timely make the required level of investment. ~~investment under G.S. 105-129.89(b).~~ A taxpayer
22 that forfeits a credit under this Article is liable for all past taxes avoided as a result of the credit
23 plus interest at the rate established under G.S. 105-241.21, computed from the date the taxes
24 would have been due if the credit had not been allowed. The past taxes and interest are due 30
25 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by
26 the due date is subject to the penalties provided in G.S. 105-236.

27 (j) Change in Ownership of Business. – As used in this subsection, the term "business"
28 means a taxpayer or ~~an establishment~~ a location. The sale, merger, consolidation, conversion,
29 acquisition, or bankruptcy of a business, or any transaction by which an existing business
30 reformulates itself as another business, does not create new eligibility in a succeeding business
31 with respect to credits for which the predecessor was not eligible under this Article. A successor
32 business may, however, take any credit or carried-over portion of a credit that its predecessor
33 could have taken if it had a tax liability. The acquisition of a business is a new investment that
34 creates new eligibility in the acquiring taxpayer under this Article if any of the following
35 conditions are met:

- 36 (1) The business closed before it was acquired.
- 37 (2) The business was required to file a notice of plant closing or mass layoff under
38 the federal Worker Adjustment and Retraining Notification Act, 29 U.S.C. §
39 2101, before it was acquired.
- 40 (3) The business was acquired by its employees directly or indirectly through an
41 acquisition company under an employee stock option transaction or another
42 similar mechanism. For the purpose of this subdivision, "acquired" means that
43 as part of the initial purchase of a business by the employees, the purchase
44 included an agreement for the employees through the employee stock option
45 transaction or another similar mechanism to obtain one of the following:
 - 46 a. Ownership of more than fifty percent (50%) of the business.
 - 47 b. Ownership of not less than forty percent (40%) of the business within
48 seven years if the business has tangible assets with a net book value in
49 excess of one hundred million dollars (\$100,000,000) and has the
50 majority of its operations located in a development tier one area.

(k) Advisory Ruling. – A taxpayer may request in writing from the Secretary of Revenue specific advice regarding eligibility for a credit under this Article. G.S. 105-264 governs the effect of this advice. A taxpayer may not legally rely upon advice offered by any other State or local government official or employee acting in an official capacity regarding eligibility for a credit under this Article.

(l) Planned Expansion. – A taxpayer that signs a letter of commitment with the Department of Commerce, after the Department has calculated the development tier designations for the next year but before the beginning of that year, to undertake specific activities at a specific site within the next two years may calculate the credit for which it qualifies based on the ~~establishment's location's~~ development tier designation ~~and urban progress zone, port enhancement zone, or agrarian growth zone designation~~ in the year in which the letter of commitment was signed by the taxpayer. If the taxpayer does not engage in the activities within the two-year period, the taxpayer does not qualify for the credit; however, if the taxpayer later engages in the activities, the taxpayer qualifies for the credit based on the development tier ~~and urban progress zone, port enhancement zone, or agrarian growth zone designations~~ designation in effect at that time.

(m) Qualified Capital Intensive Corporations. – A corporation that is a qualified capital intensive corporation under G.S. 105-130.4(s1) is not eligible for any credit under this Article with respect to the facility that satisfies the condition of subdivision (2) of that subsection.

"§ 105-129.84. (See notes) Tax election; liability eligibility; cap; carryforwards; limitations.

(a) ~~Tax Election. Liability Limitation.~~ – The credits provided in this Article are allowed against the ~~franchise tax levied in Article 3 of this Chapter, the income taxes levied in Article 4 of this Chapter, and the gross premiums tax levied in Article 8B of this Chapter. The taxpayer may divide a credit between the taxes against which it is allowed. Carryforwards of a credit may be divided between the taxes against which it is allowed without regard to the original election regarding the division of the credit.~~

(b) Cap. – The credits allowed under this Article may not exceed fifty percent (50%) of the cumulative amount of taxes against which they may be claimed for the taxable year, reduced by the sum of all other credits allowed against those taxes, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of ~~credit, including carryforwards,~~ claimed by the taxpayer under this Article for the taxable year.

(c) ~~Carryforward.~~ – ~~Unless a longer carryforward period applies, any unused portion of a credit allowed under G.S. 105-129.87 or G.S. 105-129.88 may be carried forward for the succeeding five years, and any unused portion of a credit allowed under G.S. 105-129.89 may be carried forward for the succeeding 15 years. If the Secretary of Commerce makes a written determination that the taxpayer is expected to purchase or lease, and place in service in connection with an eligible business within a two-year period, at least one hundred fifty million dollars (\$150,000,000) worth of business and real property, any unused portion of a credit under this Article with respect to the establishment that satisfies that condition may be carried forward for the succeeding 20 years. If the taxpayer does not make the required level of investment, the taxpayer shall apply the standard carryforward period rather than the 20-year carryforward period.~~

(d) Statute of Limitations. – Notwithstanding Article 9 of this Chapter, a taxpayer shall claim a credit under this Article within six months after the date set by statute for the filing of the return, including any extensions of that date.

(e) Credit Treated as Tax Payment. – The owner of a pass-through entity that claims a credit under this Article may treat some or all of the credit claimed as a tax payment made by or on behalf of the taxpayer. A credit claimed that is treated as a tax payment is subject to all provisions of this section. A credit claimed that is treated as a tax payment does not accrue interest under G.S. 105-241.21 if the payment is determined to be an overpayment. A taxpayer that elects

to have a credit claimed under this Article treated as a tax payment must make this election when the return is filed.

"§ 105-129.85. (See notes) Fees and reports.

(a) Fee. – When filing a return for a taxable year in which the taxpayer engaged in activity for which the taxpayer is eligible for a credit under this Article, the taxpayer shall pay the Department of Revenue a fee of five hundred dollars (\$500.00) for ~~each type of the~~ credit the taxpayer claims or intends to claim with respect to ~~an establishment, a location.~~ The fee is due at the time the return is due for the taxable year in which the taxpayer engaged in the activity for which the taxpayer is eligible for a credit. No credit is allowed under this Article for a taxable year until all outstanding fees have been paid. Fees collected under this section shall be credited to the General Fund.

(b) Report. – The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by credit and by taxpayer:

- (1) The number and amount of credits generated and taken for each credit allowed in this Article.
- (2) The number and development tier area of new jobs with respect to which credits were generated and to which credits were taken.
- (3) The cost and development tier area of business property with respect to which credits were generated and to which credits were taken.
- (4) The cost and development tier area of real property investment with respect to which credits were generated and to which credits were taken.

"§ 105-129.86. (See notes) Substantiation.

(a) Records. – To claim a credit allowed by this Article, the taxpayer shall provide any information required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article shall maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for the credit and the amount of the credit shall rest upon the taxpayer, and no credit shall be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

(b) Documentation. – Each taxpayer shall provide with the tax return qualifying information for each credit claimed under this Article. The qualifying information shall be in the form prescribed by the Secretary and shall be signed and affirmed by the individual who signs the taxpayer's tax return. The information required by this subsection is information demonstrating that the taxpayer has met the conditions for qualifying for a credit ~~and any~~ ~~early forwards~~ and includes the following:

- (1) The physical location of the jobs and investment with respect to which the credit is claimed, including the street address and the development tier designation of the ~~establishment, location.~~
- (2) ~~The type of business with respect to which the credit is claimed and the~~ average weekly wage at the ~~establishment, location~~ with respect to which the credit is claimed.
- (3) Any other qualifying information related to a specific credit allowed under this Article.

~~"§ 105-129.87. (See notes) Credit for creating jobs.~~

~~(a) Credit. – A taxpayer that meets the eligibility requirements set out in G.S. 105-129.83 and satisfies the threshold requirement for new job creation in this State under subsection (b) of this section during the taxable year is allowed a credit for creating jobs. The amount of the credit for each new job created is set out in the table below and is based on the development tier designation of the county in which the job is located. If the job is located in an urban progress zone, a port enhancement zone, or an agrarian growth zone, the amount of the credit is increased by one thousand dollars (\$1,000) per job. In addition, if a job located in an urban progress zone,~~

a port enhancement zone, or an agrarian growth zone is filled by a resident of that zone or by a long-term unemployed worker, the amount of the credit is increased by an additional two thousand dollars (\$2,000) per job.

Area Development Tier	Amount of Credit
Tier One	\$12,500
Tier Two	5,000
Tier Three	750

(b) ~~Threshold.~~—The applicable threshold is the appropriate amount set out in the following table based on the development tier designation of the county where the new jobs are created during the taxable year. If the taxpayer creates new jobs at more than one eligible establishment in a county during the taxable year, the threshold applies to the aggregate number of new jobs created at all eligible establishments within the county during that year. If the taxpayer creates new jobs at eligible establishments in different counties during the taxable year, the threshold applies separately to the aggregate number of new jobs created at eligible establishments in each county. If the taxpayer creates new jobs in an urban progress zone, a port enhancement zone, or an agrarian growth zone, the applicable threshold is the one for a development tier one area. New jobs created in an urban progress zone, a port enhancement zone, or an agrarian growth zone are not aggregated with jobs created at any other eligible establishments regardless of county.

Area Development Tier	Threshold
Tier One	5
Tier Two	10
Tier Three	15

(c) ~~Calculation.~~—A job is located in a county, an urban progress zone, a port enhancement zone, or an agrarian growth zone if more than fifty percent (50%) of the employee's duties are performed in the county or the zone. The number of new jobs a taxpayer creates during the taxable year is determined by subtracting the average number of full-time employees the taxpayer had in this State during the 12-month period preceding the beginning of the taxable year from the average number of full-time employees the taxpayer has in this State during the taxable year.

(d) ~~Installments.~~—The credit may not be taken in the taxable year in which the new jobs are created. Instead, the credit shall be taken in equal installments over the four years following the taxable year in which the new jobs were created and is conditional upon the continued maintenance of those jobs by the taxpayer. If, in one of the four years in which the installment of a credit accrues, a job is no longer filled, the credit with respect to that job expires, and the taxpayer may not take any remaining installment of the credit with respect to that job. If, in one of the years in which the installment of a credit accrues, the number of the taxpayer's full-time employees falls below the sum of the applicable threshold and the number of full-time employees the taxpayer had in the year before the year in which the taxpayer qualified for the credit, the credits with respect to all of the new jobs expire, and the taxpayer may not take any remaining installments of the credits. When a credit expires under this subsection, the taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.84.

(e) ~~Transferred Jobs.~~—Jobs transferred from one area in the State to another area in the State are not considered new jobs for purposes of this section. Jobs that were located in this State and that are transferred to the taxpayer from a related member of the taxpayer are not considered new jobs for purposes of this section. If, in one of the four years in which the installment of a credit accrues, the job with respect to which the credit was claimed is moved to an area in a higher-numbered development tier or out of an urban progress zone, a port enhancement zone, or an agrarian growth zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the job was initially created in the area to which it was moved.

If, in one of the years in which the installment of a credit accrues, the job with respect to which the credit was claimed is moved to an area in a lower numbered development tier or an urban progress zone, a port enhancement zone, or an agrarian growth zone, the remaining installments of the credit shall be calculated as if the job had been created initially in the area to which it was moved.

(f) ~~Wage Standard.~~—For the purposes of this section, a taxpayer satisfies the wage standard requirement of G.S. 105-129.83 only if the taxpayer satisfies the requirement with respect to both the new jobs, considered collectively, for which a credit is claimed and all of the jobs at the establishment, considered collectively, with respect to which a credit is claimed.

(g) ~~No Double Credit.~~—A taxpayer may not claim a credit under this section with respect to jobs for which a taxpayer claims a credit under G.S. 105-129.8.

"§ 105-129.88. (See notes) Credit for investing in business property.

(a) ~~General Credit.~~—A taxpayer that meets the eligibility requirements set out in G.S. 105-129.83 and that has purchased or leased business property and placed it in service in this State during the taxable year and that has satisfied the threshold requirements of subsection (c) of this section is allowed a credit equal to the applicable percentage of the excess of the eligible investment amount over the applicable threshold. If the taxpayer places business property in service in an urban progress zone, a port enhancement zone, or an agrarian growth zone, the applicable percentage is the one for a development tier one area. Business property is eligible if it is not leased to another party. The credit may not be taken for the taxable year in which the business property is placed in service but shall be taken in equal installments over the four years following the taxable year in which it is placed in service. The applicable percentage is as follows:

Area Development Tier	Applicable Percentage
Tier One	7%
Tier Two	5%
Tier Three	3.5%

(b) ~~Eligible Investment Amount.~~—The eligible investment amount is the lesser of (i) the cost of the eligible business property and (ii) the amount by which the cost of all of the taxpayer's eligible business property that is in service in this State on the last day of the taxable year exceeds the cost of all of the taxpayer's eligible business property that was in service in this State on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer had the most eligible business property in service in this State.

(c) ~~Threshold.~~—The applicable threshold is the appropriate amount set out in the following table based on the development tier where the eligible business property is placed in service during the taxable year. If the taxpayer places business property in service in an urban progress zone, a port enhancement zone, or an agrarian growth zone, the applicable threshold is the one for a development tier one area. Business property placed in service in an urban progress zone, a port enhancement zone, or an agrarian growth zone is not aggregated with business property placed in service at any other eligible establishments regardless of county. If the taxpayer places eligible business property in service at more than one establishment in a county during the taxable year, the threshold applies to the aggregate amount of eligible business property placed in service during the taxable year at all establishments in the county. If the taxpayer places eligible business property in service at establishments in different counties, the threshold applies separately to the aggregate amount of eligible business property placed in service in each county. If the taxpayer places eligible business property in service at an establishment over the course of a two year period, the applicable threshold for the second taxable year is reduced by the eligible investment amount for the previous taxable year.

Area Development Tier	Threshold
Tier One	\$ 0
Tier Two	1,000,000

1 Tier Three 2,000,000

2 (d) Expiration. — As used in this subsection, the term "disposed of" means disposed of,
 3 taken out of service, or moved out of State. If, in one of the four years in which the installment
 4 of a credit accrues, the business property with respect to which the credit was claimed is disposed
 5 of, the credit expires, and the taxpayer may not take any remaining installment of the credit for
 6 that business property unless the cost of that business property is offset in the same taxable year
 7 by the taxpayer's new investment in eligible business property placed in service in the same
 8 county, as provided in this subsection. If, during the taxable year, the taxpayer disposed of the
 9 business property for which installments remain, there has been a net reduction in the cost of all
 10 the taxpayer's eligible business property that are in service in the same county as the business
 11 property that was disposed of, and the amount of this reduction is greater than twenty percent
 12 (20%) of the cost of the business property that was disposed of, then the credit for the business
 13 property that was disposed of expires. If the amount of the net reduction is equal to twenty percent
 14 (20%) or less of the cost of the business property that was disposed of, or if there is no net
 15 reduction, then the credit does not expire. In determining the amount of any net reduction during
 16 the taxable year, the cost of business property the taxpayer placed in service during the taxable
 17 year and for which the taxpayer claims a credit under Article 3A or Article 3B of this Chapter
 18 may not be included in the cost of all the taxpayer's eligible business property that is in service.
 19 If in a single taxable year business property with respect to two or more credits in the same county
 20 are disposed of, the net reduction in the cost of all the taxpayer's eligible business property that
 21 is in service in the same county is compared to the total cost of all the business property for which
 22 credits expired in order to determine whether the remaining installments of the credits are
 23 forfeited.

24 The expiration of a credit does not prevent the taxpayer from taking the portion of an
 25 installment that accrued in a previous year and was carried forward to the extent permitted under
 26 G.S. 105-129.84.

27 (e) Transferred Property. — If, in one of the four years in which the installment of a credit
 28 accrues, the business property with respect to which the credit was claimed is moved to a county
 29 in a higher-numbered development tier or out of an urban progress zone, a port enhancement
 30 zone, or an agrarian growth zone, the remaining installments of the credit are allowed only to the
 31 extent they would have been allowed if the business property had been placed in service initially
 32 in the area to which it was moved. If, in one of the four years in which the installment of a credit
 33 accrues, the business property with respect to which a credit was claimed is moved to a county
 34 in a lower-numbered development tier or an urban progress zone, a port enhancement zone, or
 35 an agrarian growth zone, the remaining installments of the credit shall be calculated as if the
 36 business property had been placed in service initially in the area to which it was moved.

37 (f) Wage Standard. — For the purposes of this section, a taxpayer satisfies the wage
 38 standard requirement of G.S. 105-129.83 only if the taxpayer satisfies the requirement with
 39 respect to all of the jobs at the establishment, considered collectively, with respect to which a
 40 credit is claimed.

41 (g) No Double Credit. — A taxpayer may not claim a credit under this section with respect
 42 to business property for which the taxpayer claims a credit under G.S. 105-129.9 or
 43 G.S. 105-129.9A.

44 **"§ 105-129.89. (See notes) Credit for investment in real property.**

45 (a) Credit. — If a taxpayer that has purchased or leased real property in a development tier
 46 one area begins to use the property in an eligible business during the taxable year, the taxpayer
 47 is allowed a credit equal to thirty percent (30%) of the eligible investment amount if all of the
 48 eligibility requirements of G.S. 105-129.83 and of subsection (b) of this section are met. For the
 49 purposes of this section, property is located in a development tier one area if the area the property
 50 is located in was a development tier one area at the time the taxpayer made a written application
 51 for the determination required under subsection (b) of this section. The eligible investment

1 amount is the lesser of (i) the cost of the property and (ii) the amount by which the cost of all of
2 the real property the taxpayer is using in this State in an eligible business on the last day of the
3 taxable year exceeds the cost of all of the real property the taxpayer was using in this State in an
4 eligible business on the last day of the base year. The base year is that year, of the three
5 immediately preceding taxable years, in which the taxpayer was using the most real property in
6 this State in an eligible business. In the case of property that is leased, the cost of the property is
7 not determined as provided in G.S. 105-129.81 but is considered to be the taxpayer's lease
8 payments over a seven-year period, plus any expenditures made by the taxpayer to improve the
9 property before it is used by the taxpayer if the expenditures are not reimbursed or credited by
10 the lessor. The entire credit may not be taken for the taxable year in which the property is first
11 used in an eligible business but shall be taken in equal installments over the seven years following
12 the taxable year in which the property is first used in an eligible business. When part of the
13 property is first used in an eligible business in one year and part is first used in an eligible business
14 in a later year, separate credits may be claimed for the amount of property first used in an eligible
15 business in each year. The basis in any real property for which a credit is allowed under this
16 section shall be reduced by the amount of credit allowable.

17 (b) ~~Determination by the Secretary of Commerce.~~—A taxpayer is eligible for the credit
18 allowed under this section with respect to an establishment only if the Secretary of Commerce
19 makes a written determination that the taxpayer is expected to purchase or lease and use in an
20 eligible business at that establishment within a three-year period at least ten million dollars
21 (\$10,000,000) of real property and that the establishment that is the subject of the credit will
22 create at least 200 new jobs within two years of the time that the property is first used in an
23 eligible business. If the taxpayer fails to timely make the required level of investment or fails to
24 timely create the required number of new jobs, the taxpayer forfeits the credit as provided in G.S.
25 105-129.83.

26 (c) ~~Mixed Use Property.~~—If the taxpayer uses only part of the property in an eligible
27 business, the amount of the credit allowed under this section is reduced by multiplying it by a
28 fraction, the numerator of which is the square footage of the property used in an eligible business
29 and the denominator of which is the total square footage of the property.

30 (d) ~~Expiration.~~—If, in one of the seven years in which the installment of a credit accrues,
31 the property with respect to which the credit was claimed is no longer used in an eligible business,
32 the credit expires, and the taxpayer may not take any remaining installment of the credit. If, in
33 one of the seven years in which the installment of a credit accrues, part of the property with
34 respect to which the credit was claimed is no longer used in an eligible business, the remaining
35 installments of the credit shall be reduced by multiplying it by the fraction described in subsection
36 (c) of this section. If, in one of the years in which the installment of a credit accrues and by which
37 the taxpayer is required to have created 200 new jobs at the property, the total number of
38 employees the taxpayer employs at the property with respect to which the credit is claimed is less
39 than 200, the credit expires, and the taxpayer may not take any remaining installment of the
40 credit.

41 ~~In each of these cases, the taxpayer may nonetheless take the portion of an installment that~~
42 ~~accrued in a previous year and was carried forward to the extent permitted under G.S.~~
43 ~~105-129.84.~~

44 (e) ~~No Double Credit.~~—A taxpayer may not claim a credit under this section with respect
45 to real property for which a credit is claimed under G.S. 105-129.12 or G.S. 105-129.12A.

46 **"§ 105-129.90. Credit for clean energy manufacturing.**

47 (a) Credit. — A qualifying clean energy manufacturer that (i) meets the eligibility
48 requirements set out in G.S. 105-129.83 and (ii) satisfies the requirements for new job creation
49 and investment under this subsection during the taxable year is allowed a credit for clean energy
50 manufacturing. The amount of the credit is equal to a percentage of the qualifying clean energy

manufacturer's cumulative amount of income taxes for the taxable year for a number of years, as follows:

<u>Job Threshold</u>	<u>Investment Threshold</u>	<u>Years of Credit</u>
<u>25</u>	<u>\$1,500,000</u>	<u>3</u>
<u>50</u>	<u>\$2,500,000</u>	<u>4</u>
<u>100</u>	<u>\$5,000,000</u>	<u>5</u>

The applicable percentage is fifty percent (50%) if the location is a retired fossil fuel plant site located in the State with existing transmission infrastructure and cooling water access, and the applicable percentage is thirty percent (Y30) for any other location.

(b) Job Calculation Provisions. – The following provisions apply to the job threshold provided in subsection (a) of this section:

- (1) If the taxpayer creates new jobs at more than one eligible location establishment in the State during the taxable year, the threshold applies to the aggregate number of new jobs created at all eligible locations establishments within the eligible counties during that year.
- (2) A job is located in a county if more than fifty percent (50%) of the employee's duties are performed in the county. The number of new jobs a taxpayer creates during the taxable year is determined by subtracting the average number of full-time employees the taxpayer had in this State during the 12-month period preceding the beginning of the taxable year from the average number of full-time employees the taxpayer has in this State during the taxable year.
- (3) Jobs transferred from one area in the State to another area in the State are not considered new jobs for purposes of this section. Jobs that were located in this State and that are transferred to the taxpayer from a related member of the taxpayer are not considered new jobs for purposes of this section. If the job with respect to which the credit was claimed is moved to a development tier three area, the remaining installments of the credit are not allowed.
- (4) For the purposes of this section, a taxpayer satisfies the wage standard requirement of G.S. 105-129.83 only if the taxpayer satisfies the requirement with respect to both the new jobs, considered collectively, for which a credit is claimed and all of the jobs at the location, considered collectively, with respect to which a credit is claimed.

(c) Investment Provisions. – The following provisions apply to the investment threshold provided in subsection (a) of this section:

- (1) The investment threshold with private funds invested in the form of (i) purchasing or leasing business property and placing it in service in this State during the taxable year or (ii) purchasing or leasing real property in this State and beginning to use the property during the taxable year.
- (2) Business property is eligible if it is not leased to another party. The eligible investment amount is the lesser of (i) the cost of the eligible business property and (ii) the amount by which the cost of all of the taxpayer's eligible business property that is in service in this State on the last day of the taxable year exceeds the cost of all of the taxpayer's eligible business property that was in service in this State on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer had the most eligible business property in service in this State. If the taxpayer places eligible business property in service at locations in different counties and some of the locations are in development tier three areas, the investment calculation will be reduced proportionately. If the taxpayer places eligible business property in service at a location over the course of more than one

- 1 year, the applicable threshold for each subsequent taxable year is reduced by
2 the eligible investment amount for the previous taxable years.
- 3 (3) Real property is located in the development tier area applicable to the county
4 at the time the taxpayer made a written application for the determination
5 required under this Article. The eligible investment amount is the lesser of (i)
6 the cost of the property and (ii) the amount by which the cost of all of the real
7 property the taxpayer is using in this State in an eligible business on the last
8 day of the taxable year exceeds the cost of all of the real property the taxpayer
9 was using in this State in an eligible business on the last day of the base year.
10 The base year is that year, of the three immediately preceding taxable years,
11 in which the taxpayer was using the most real property in this State in an
12 eligible business. In the case of property that is leased, the cost of the property
13 is considered to be the taxpayer's lease payments for the years for which the
14 credit is given, plus any expenditures made by the taxpayer to improve the
15 property before it is used by the taxpayer if the expenditures are not
16 reimbursed or credited by the lessor. When part of the property is first used in
17 one year and part is first used in a later year, separate credits may be claimed
18 for the amount of property first used in an eligible business in each year. The
19 basis in any real property for which a credit is allowed under this section shall
20 be reduced by the amount of credit allowable. If the taxpayer uses only part
21 of the property in clean energy manufacturing, the amount of the credit
22 allowed under this section is reduced by multiplying it by a fraction, the
23 numerator of which is the square footage of the property used in clean energy
24 manufacturing and the denominator of which is the total square footage of the
25 property.
- 26 (4) If, in one of the years in which the credit remains, the property with respect to
27 which the credit was claimed is no longer used in clean energy manufacturing,
28 the credit expires and the taxpayer is not allowed the credit in any years
29 remaining. If, in one of the years in which the credit remains, a part of the
30 property with respect to which the credit was claimed is no longer used in
31 clean energy manufacturing and that amount reduces the number of years
32 calculated for the credit, only remaining years for the lower calculation may
33 be claimed."

34 **SECTION 3.** Section 2 of this act is effective for taxable years beginning on or after
35 January 1, 2025. The remainder of this act is effective when it becomes law.