

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 142\*

Short Title: Enterprise Zone Development Act.

(Public)

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Sponsors: Representative Wright.

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Referred to: Economic Growth and Community Development, if favorable, Finance.

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February 25, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO DESIGNATE ENTERPRISE TAX ZONES AND PROVIDE  
3 INCENTIVES FOR BUSINESS DEVELOPMENT IN THE ZONES.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 158 of the General Statutes is amended by adding a new  
6 Article to read:

7 **“ARTICLE 5.**

8 **"ENTERPRISE ZONES.**

9 **"§ 158-50. Enterprise zones defined.**

10 (a) Definition. – An enterprise zone is a census tract in the most recent federal  
11 decennial census that meets both of the following conditions:

12 (1) It is located in a city with a population of 25,000 or more according to  
13 the most recent annual population estimates certified by the State  
14 Planning Officer.

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

17 (b) Annual Certification. – On or before December 31 of each year, the Secretary  
18 of Commerce shall identify all enterprise zones that meet the conditions of subsection (a)  
19 of this section. The Secretary of Commerce shall provide a certified list identifying these  
20 enterprise zones to any person who requests one.

1 **"§ 158-51. Incentives available for zones.**

2 The following incentives are available to encourage business development within  
3 enterprise zones:

- 4 (1) Income tax exclusion for gain from appreciation of zone property, as  
5 provided in G.S. 105-130.5(b) and G.S. 105-134.6(b).  
6 (2) Income tax credit for property tax increase due to improvements within  
7 zone, as provided in G.S. 105-129.20.  
8 (3) Income tax credit for installation of machinery and equipment within  
9 zone, as provided in G.S. 105-129.21.  
10 (4) State sales tax refund for zone corporations' purchases, as provided in  
11 G.S. 105-164.14.  
12 (5) Income tax credit for creating jobs in zone, as provided in G.S. 105-  
13 129.8.  
14 (6) Industrial Development Fund funding for local government projects  
15 within zone, as provided in G.S. 143B-437.01."

16 Section 2. G.S. 105-228.90(b) is amended by adding a new subdivision to  
17 read:

18 "(4) Enterprise zone. – Defined in G.S. 158-50."

19 Section 3. G.S. 105-130.5(b) is amended by adding a new subdivision to read:

20 "(18) That part of the gain realized on the disposition of real property located  
21 in an enterprise zone that is attributable to increases in the value of the  
22 property that occur on or after January 1, 2000."

23 Section 4. G.S. 105-134.6(b) is amended by adding a new subdivision to read:

24 "(15) That part of the gain realized on the disposition of real property located  
25 in an enterprise zone that is attributable to increases in the value of the  
26 property that occur on or after January 1, 2000."

27 Section 5. G.S. 105-129.15 reads as rewritten:

28 **"§ 105-129.15. (Repealed effective January 1, 2002) Definitions.**

29 The following definitions apply in this Article:

30 (1) Business property. – Tangible personal property that is used by the  
31 taxpayer in connection with a business or for the production of income  
32 and is capitalized by the taxpayer for tax purposes under the Code. The  
33 term does not include, however, a luxury passenger automobile taxable  
34 under section 4001 of the Code or a watercraft used principally for  
35 entertainment and pleasure outings for which no admission is charged.

36 (2) Cost. – In the case of property owned by the taxpayer, cost is  
37 determined pursuant to regulations adopted under section 1012 of the  
38 Code, subject to the limitation on cost provided in section 179 of the  
39 Code. In the case of property the taxpayer leases from another, cost is  
40 value as determined pursuant to G.S. 105-130.4(j)(2).

41 (2a) Machinery and equipment. – Defined in G.S. 105-129.2.

42 (2b) Property taxes. – The principal amount of taxes levied and assessed by a  
43 taxing unit under Subchapter II of this Chapter. The term does not

1 include costs, penalties, interest, or other charges that may be added to  
2 the principal amount.

3 (3) Purchase. – Defined in section 179 of the Code.

4 (4) Taxing unit. – Defined in G.S. 105-273."

5 Section 6. Article 3B of Chapter 105 of the General Statutes is amended by  
6 adding the following new sections to read:

7 **"§ 105-129.20. Credit for property tax increase due to improvement of enterprise**  
8 **zone property.**

9 (a) Credit. – A taxpayer is allowed a credit equal to the increase in the amount of  
10 property taxes the taxpayer paid at par during the taxable year attributable to an increase  
11 in value of real property located in an enterprise zone due to improvements the taxpayer  
12 made to the property the immediately preceding year. The taxpayer may not take the  
13 entire credit for the taxable year the increased taxes were paid, but may take up to twenty  
14 percent (20%) of the aggregate credit allowed under this section for that taxable year and  
15 for each succeeding taxable year until the entire credit has been used. To claim the  
16 credit, the taxpayer shall provide with the return a copy of the tax receipt for the property  
17 taxes for which credit is claimed and any other documentation required by the Secretary.  
18 The tax receipt must indicate that the taxes have been paid and the amount and date of the  
19 payment.

20 (b) Adjustment. – If a taxing unit gives a taxpayer a credit or refund for any of the  
21 property taxes for which the taxpayer claimed a credit under this section, the taxpayer  
22 shall notify the Secretary within 90 days. The Secretary shall then recompute the credit  
23 allowed under this section and make any resulting adjustment of tax for the taxable years  
24 for which the credit was claimed.

25 **"§ 105-129.21. Credit for machinery and equipment in enterprise zones.**

26 A taxpayer that purchases or leases machinery and equipment and, during the taxable  
27 year, places it in service in an enterprise zone is allowed a credit against the tax imposed  
28 by this Part equal to fifteen percent (15%) of the cost of the machinery and equipment.  
29 This credit is in addition to any credit allowed under Article 3A of this Chapter."

30 Section 7. G.S. 105-164.14 is amended by adding a new subsection to read:

31 "(h) Enterprise Zone Corporations. – A corporation that is located in an enterprise  
32 zone is allowed an annual refund of sales and use taxes paid by it under this Article on  
33 direct purchases of tangible personal property for use within the zone. Sales and use tax  
34 liability indirectly incurred by a corporation on building materials, supplies, fixtures, and  
35 equipment that become a part of or annexed to any building or structure within the zone  
36 that is owned or leased by the corporation is considered a sales or use tax liability  
37 incurred on direct purchases by the corporation. The annual refund period is the fiscal  
38 year of the State. A request for a refund must be in writing and must include any  
39 information and documentation required by the Secretary. A request for a refund is due  
40 January 1 following the end of the fiscal year for which the refund is claimed.  
41 Notwithstanding the provisions of G.S. 105-467, the refund allowed under this subsection  
42 does not apply to local sales and use taxes levied by units of local government."

43 Section 8. G.S. 105-129.8 reads as rewritten:

1 **"§ 105-129.8. (Repealed effective January 1, 2002) Credit for creating jobs.**

2 (a) Credit. – A taxpayer that meets the eligibility requirements set out in G.S. 105-  
3 129.4, has five or more employees for at least 40 weeks during the taxable year, and hires  
4 an additional full-time employee during that year to fill a position located in this State is  
5 allowed a credit for creating a new full-time job. The amount of the credit for each new  
6 full-time job created is set out in the table below and is based on the enterprise tier of the  
7 area in which the position is located. In addition, if the position is located in a  
8 development ~~zone, zone or an enterprise zone~~, the amount of the credit is increased by  
9 four thousand dollars (\$4,000) per job.

10 Area Enterprise Tier	Amount of Credit
11 Tier One	\$12,500
12 Tier Two	4,000
13 Tier Three	3,000
14 Tier Four	1,000
15 Tier Five	500

16 A position is located in an area if more than fifty percent (50%) of the employee's  
17 duties are performed in the area. The credit may not be taken in the taxable year in which  
18 the additional employee is hired. Instead, the credit shall be taken in equal installments  
19 over the four years following the taxable year in which the additional employee was hired  
20 and shall be conditioned on the continued employment by the taxpayer of the number of  
21 full-time employees the taxpayer had upon hiring the employee that caused the taxpayer  
22 to qualify for the credit.

23 If, in one of the four years in which the installment of a credit accrues, the number of  
24 the taxpayer's full-time employees falls below the number of full-time employees the  
25 taxpayer had in the year in which the taxpayer qualified for the credit, the credit expires  
26 and the taxpayer may not take any remaining installment of the credit. The taxpayer may,  
27 however, take the portion of an installment that accrued in a previous year and was  
28 carried forward to the extent permitted under G.S. 105-129.5.

29 Jobs transferred from one area in the State to another area in the State shall not be  
30 considered new jobs for purposes of this section. If, in one of the four years in which the  
31 installment of a credit accrues, the position filled by the employee is moved to an area in  
32 a higher- or lower-numbered enterprise tier, or is moved from a development zone or an  
33 enterprise zone to an area that is not a development ~~zone, zone or an enterprise zone~~, the  
34 remaining installments of the credit shall be calculated as if the position had been created  
35 initially in the area to which it was moved.

36 (b) Repealed by Session Laws 1989, c. 111, s. 1.

37 (b1), (c) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.

38 (d) Planned Expansion. – A taxpayer that signs a letter of commitment with the  
39 Department of Commerce to create at least twenty new full-time jobs in a specific area  
40 within two years of the date the letter is signed qualifies for the credit in the amount  
41 allowed by this section based on the area's enterprise ~~tier-tier, enterprise zone~~, and  
42 development zone designation for that year even though the employees are not hired that  
43 year. The credit shall be available in the taxable year after at least twenty employees have

1 been hired if the hirings are within the two-year commitment period. The conditions  
2 outlined in subsection (a) apply to a credit taken under this subsection except that if the  
3 area is redesignated to a higher-numbered enterprise tier or loses its development zone or  
4 enterprise zone designation after the year the letter of commitment was signed, the credit  
5 is allowed based on the area's enterprise ~~tier~~ enterprise zone, and development zone  
6 designation for the year the letter was signed. If the taxpayer does not hire the employees  
7 within the two-year period, the taxpayer does not qualify for the credit. However, if the  
8 taxpayer qualifies for a credit under subsection (a) in the year any new employees are  
9 hired, the taxpayer may take the credit under that subsection.

10 (e), (f) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3 for  
11 taxable years beginning on or after January 1, 1996."

12 Section 9. G.S. 143B-437.01 reads as rewritten:

13 "**§ 143B-437.01. Industrial Development Fund.**

14 (a) Creation and Purpose of Fund. – There is created in the Department of  
15 Commerce the Industrial Development Fund to provide funds to assist the local  
16 government units of ~~the most economically distressed counties in the State~~ economically  
17 distressed areas in creating jobs in certain industries. The Department of Commerce shall  
18 adopt rules providing for the administration of the program. Those rules shall include the  
19 following provisions, which shall apply to each grant from the fund:

20 (1) The funds shall be used for (i) installation of or purchases of equipment  
21 for eligible industries, (ii) structural repairs, improvements, or  
22 renovations of existing buildings to be used for expansion of eligible  
23 industries, or (iii) construction of or improvements to new or existing  
24 water, sewer, gas, or electrical utility distribution lines or equipment for  
25 existing or new or proposed industrial buildings to be used for eligible  
26 industries. To be eligible for funding, the water, sewer, gas, or electrical  
27 utility lines or facilities shall be located on the site of the building or, if  
28 not located on the site, shall be directly related to the operation of the  
29 specific eligible industrial activity.

30 (1a) The funds shall be used for projects located in economically distressed  
31 ~~counties~~ areas except that the Secretary of Commerce may use up to one  
32 hundred thousand dollars (\$100,000) to provide emergency economic  
33 development assistance in any county that is documented to be  
34 experiencing a major economic dislocation.

35 (2) The funds shall be used by the city and county governments for projects  
36 that will directly result in the creation of new jobs. The funds shall be  
37 expended at a maximum rate of five thousand dollars (\$5,000) per new  
38 job created up to a maximum of five hundred thousand dollars  
39 (\$500,000) per project.

40 (3) There shall be no local match requirement if the project is located in an  
41 enterprise tier one area as defined in G.S. 105-129.3.

42 (4) The Department may authorize a local government that receives funds  
43 under this section to use up to two percent (2%) of the funds, if

1 necessary, to verify that the funds are used only in accordance with law  
2 and to otherwise administer the grant or loan.

3 (a1) Definitions. – The following definitions apply in this section:

4 (1) Air courier services. – A person is engaged in the air courier services  
5 business if the person's primary business is furnishing air delivery of  
6 individually addressed letters and packages, except by the United States  
7 Postal Service.

8 (2) Central administrative office. – Defined in the North American Industry  
9 Classification System adopted by the United States Office of  
10 Management and Budget.

11 (3) Data processing. – Defined in the North American Industry  
12 Classification System adopted by the United States Office of  
13 Management and Budget.

14 (4) Economically distressed ~~county~~. — ~~A~~ area. – An enterprise zone as  
15 defined in G.S. 158-50 or a county designated as an enterprise tier one,  
16 two, or three area pursuant to G.S. 105-129.3.

17 (5) Eligible industry. – A central administrative office or a person engaged  
18 in the business of air courier services, data processing, manufacturing,  
19 or warehousing and wholesale trade.

20 (6) Reserved.

21 (7) Major economic dislocation. – The actual or imminent loss of 500 or  
22 more manufacturing jobs in the county or of a number of manufacturing  
23 jobs equal to at least ten percent (10%) of the existing manufacturing  
24 workforce in the county.

25 (8) Manufacturing. – Defined in the North American Industry Classification  
26 System adopted by the United States Office of Budget and  
27 Management.

28 (9) Reserved.

29 (10) Warehousing and wholesale trade. – Defined in the North American  
30 Industry Classification System adopted by the United States Office of  
31 Management and Budget.

32 (b) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.5.

33 (b1) Utility Account. – There is created within the Industrial Development Fund a  
34 special account to be known as the Utility Account to provide funds to assist the local  
35 government units of enterprise tier one and tier two areas, as defined in G.S. 105-129.3,  
36 in creating jobs in eligible industries. The Department of Commerce shall adopt rules  
37 providing for the administration of the program. Except as otherwise provided in this  
38 subsection, those rules shall be consistent with the rules adopted with respect to the  
39 Industrial Development Fund. The rules shall provide that the funds in the Utility  
40 Account may be used only for construction of or improvements to new or existing water,  
41 sewer, gas, or electrical utility distribution lines or equipment for existing or new or  
42 proposed industrial buildings to be used for eligible industrial operations. To be eligible  
43 for funding, the water, sewer, gas, or electrical utility lines or facilities shall be located on

1 the site of the building or, if not located on the site, shall be directly related to the  
2 operation of the specific industrial activity. There shall be no maximum funding amount  
3 per new job to be created or per project.

4 (c) Reports. – The Department of Commerce shall report annually to the General  
5 Assembly concerning the applications made to the fund and the payments made from the  
6 fund and the impact of the payments on job creation in the State. The Department of  
7 Commerce shall also report quarterly to the Joint Legislative Commission on  
8 Governmental Operations and the Fiscal Research Division on the use of the moneys in  
9 the fund, including information regarding to whom payments were made, in what  
10 amounts, and for what purposes.

11 (c1) In addition to the reporting requirements of subsection (c) of this section, the  
12 Department of Commerce shall report annually to the General Assembly concerning the  
13 payments made from the Utility Account and the impact of the payments on job creation  
14 in the State. The Department of Commerce shall also report quarterly to the Joint  
15 Legislative Commission on Governmental Operations and the Fiscal Research Division  
16 on the use of the moneys in the Utility Account including information regarding to whom  
17 payments were made, in what amounts, and for what purposes.

18 (d) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.5."

19 Section 10. G.S. 153A-376(f) reads as rewritten:

20 "(f) All program income from Economic Development Grants from the Small  
21 Cities Community Development Block Grant Program may be retained by ~~recipient~~  
22 recipients that are or include 'economically distressed ~~counties~~, areas', as defined in G.S.  
23 ~~143B-437A–143B-437.01~~ for the purposes of creating local economic development  
24 revolving loan ~~funds~~. funds to serve the area. Such program income derived through the  
25 use by counties of Small Cities Community Development Block Grant money includes  
26 but is not limited to: (i) payment of principal and interest on loans made by the county  
27 using Community Development Block Grant Funds; (ii) proceeds from the lease or  
28 disposition of real property acquired with Community Development Block Grant Funds;  
29 and (iii) any late fees associated with loan or lease payments in (i) and (ii) above. The  
30 local economic development revolving loan fund set up by the county shall fund only  
31 those activities eligible under Title I of the federal Housing and Community  
32 Development Act of 1974, as amended (P.L. 93-383), and shall meet at least one of the  
33 three national objectives of the Housing and Community Development Act. Any  
34 expiration of G.S. ~~143B-437A–143B-437.01~~ or G.S. 105-129.3 shall not affect this  
35 subsection as to designations of economically distressed ~~counties~~ areas made prior to its  
36 expiration."

37 Section 11. G.S. 160A-456(e1) reads as rewritten:

38 "(e1) All program income from Economic Development Grants from the Small  
39 Cities Community Development Block Grant Program may be retained by recipient cities  
40 ~~in~~ that are in or include 'economically distressed ~~counties~~, areas', as defined in G.S. ~~143B-~~  
41 ~~437A,–143B-437.01~~, for the purposes of creating local economic development revolving  
42 loan funds. Such program income derived through the use by cities of Small Cities  
43 Community Development Block Grant money includes but is not limited to: (i) payment

1 of principal and interest on loans made by the county using Community Development  
2 Block Grant Funds; (ii) proceeds from the lease or disposition of real property acquired  
3 with Community Development Block Grant Funds; and (iii) any late fees associated with  
4 loan or lease payments in (i) and (ii) above. The local economic development revolving  
5 loan fund set up by the city shall fund only those activities eligible under Title I of the  
6 federal Housing and Community Development Act of 1974, as amended (P.L. 93-383),  
7 and shall meet at least one of the three national objectives of the Housing and  
8 Community Development Act. Any expiration of G.S. ~~143B-437A-143B-437.01~~ or G.S.  
9 105-129.3 shall not affect this subsection as to designations of economically distressed  
10 ~~counties~~ areas made prior to its expiration."

11 Section 12. G.S. 105-129.17 reads as rewritten:

12 **"§ 105-129.17. (Repealed effective January 1, 2002) Tax election; cap.**

13 (a) Tax Election. – The ~~credit~~ credits allowed in this Article ~~is~~ are allowed against  
14 the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4  
15 of this Chapter. The taxpayer must elect the tax against which ~~the~~ a credit will be claimed  
16 when filing the return on which the first installment of the credit is claimed. This election  
17 is binding. Any carryforwards of the credit must be claimed against the same tax.

18 (b) Cap. – The ~~credit~~ credits allowed in this Article may not exceed fifty percent  
19 (50%) of the tax against which ~~it is~~ they are claimed for the taxable year, reduced by the  
20 sum of all other credits allowed against that tax, except tax payments made by or on  
21 behalf of the taxpayer. This limitation applies to the cumulative amount of credit,  
22 including carryforwards, claimed by the taxpayer under this Article against each tax for  
23 the taxable year. Any unused portion of the credit may be carried forward for the  
24 succeeding five years."

25 Section 13. G.S. 105-129.18 reads as rewritten:

26 **"§ 105-129.18. (Repealed effective January 1, 2002) Substantiation.**

27 To claim ~~the~~ a credit allowed by this Article, the taxpayer must provide any  
28 information required by the Secretary of Revenue. Every taxpayer claiming a credit under  
29 this Article must maintain and make available for inspection by the Secretary of Revenue  
30 any records the Secretary considers necessary to determine and verify the amount of the  
31 credit to which the taxpayer is entitled. The burden of proving eligibility for the credit  
32 and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a  
33 taxpayer that fails to maintain adequate records or to make them available for  
34 inspection."

35 Section 14. G.S. 105-129.19 reads as rewritten:

36 **"§ 105-129.19. (Repealed effective January 1, 2002) Reports.**

37 The Department of Revenue shall report to the Legislative Research Commission and  
38 to the Fiscal Research Division of the General Assembly by May 1 of each year the  
39 following information for the 12-month period ending the preceding April 1:

- 40 (1) The number of taxpayers that claimed the ~~credit~~ credits allowed in this  
41 Article.
- 42 (2) The cost of business property with respect to which credits were  
43 claimed.



- 1           (2a) The total cost of machinery and equipment with respect to which credits  
2           were claimed.
- 3           (3) The total cost to the General Fund of the credits claimed."
- 4           Section 15. Sections 3 through 6, 8, and 12 through 14 of this act become  
5 effective for taxable years beginning on or after January 1, 2000. Section 7 of this act  
6 becomes effective January 1, 2000, and applies to taxes paid on or after that date. The  
7 remainder of this act is effective when it becomes law. The provisions of this act expire  
8 on January 1, 2005. The expiration of this act does not affect the rights or liabilities of  
9 the State or a taxpayer arising under it before its expiration nor does it affect a taxpayer's  
10 right to any portion of an installment of a credit that accrued, or to a carryforward of any  
11 portion of a credit that was permitted before the act's expiration.