

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1303

Short Title: Amend Bill Lee Act/Incentives.

(Public)

Sponsors: Representatives Owens, Wright, Gray; and Goodwin.

Referred to: Finance.

April 20, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR WIDELY SHARED PROSPERITY BY AMENDING
THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT, BY
PROVIDING ADDITIONAL TAX INCENTIVES FOR VARIOUS BUSINESSES,
AND BY MAKING RELATED CHANGES.

The General Assembly of North Carolina enacts:

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PART I. BILL LEE ACT CHANGES

Section 1. Section 10.2(3) of Chapter 13 of the 1996 Second Extra Session
reads as rewritten:

"(3) Quality jobs and business expansion tax credits. – Sections 3.5, 3.6, and
3.8 through 3.10 of Part III of this act become effective August 1, 1996.
G.S. 105-129.11, as enacted by Part III of this act, becomes effective for
taxable years beginning on or after January 1, 1997, and applies to
training expenditures made on or after July 1, 1997. The remainder of

1 Part III of this act is effective for taxable years beginning on or after
2 January 1, 1996, and applies to jobs created on or after August 1, 1996,
3 and property placed in service on or after August 1, 1996. Article 3A of
4 Chapter 105 of the General Statutes is repealed effective for
5 applications for credits filed under G.S. 105-129.6 on or after January 1,
6 ~~2002.~~ 2005. Article 3B of Chapter 105 of the General Statutes is
7 repealed effective for business property placed in service on or after
8 January 1, 2002."

9 Section 2. Article 3A of Chapter 105 of the General Statutes read as rewritten:

10 **"ARTICLE 3A.**

11 **"TAX INCENTIVES FOR NEW AND EXPANDING BUSINESSES.**

12 **"§ 105-129.2. Definitions.**

13 The following definitions apply in this Article:

- 14 (1) Air courier services. – A person is engaged in the air courier services
15 business if the person's primary business is furnishing air delivery of
16 individually addressed letters and packages for compensation, except
17 by the United States Postal Service.
- 18 (2) Central administrative office. – ~~Defined~~ Either of the following:
19 a. A corporate, subsidiary, or regional managing office, as defined
20 by NAICS. in the North American Industry Classification
21 System adopted by the United States Office of Management and
22 Budget.
23 b. An auxiliary division engaged primarily in centralized training
24 for an interstate passenger air carrier at its hub. For the purpose
25 of this subdivision, the terms 'interstate passenger air carrier' and
26 'hub' have the meanings provided in G.S. 105-164.3.
- 27 (3) Cost. – In the case of property owned by the taxpayer, cost is
28 determined pursuant to regulations adopted under section 1012 of
29 the Code. In the case of property the taxpayer leases from another,
30 cost is value as determined pursuant to G.S. 105-130.4(j)(2).
- 31 (3a) Customer service center. – An auxiliary subdivision of a
32 telecommunications or financial services company, as defined by
33 NAICS, that is primarily engaged in providing support services to
34 the company's customers by telephone to support products or
35 services of the company. For the purpose of this definition, a
36 subdivision is primarily engaged in providing support services by
37 telephone if at least sixty percent (60%) of its calls are incoming.
- 38 (4) Data processing. – Any of the following industries, as defined by
39 NAICS: ~~Defined in the North American Industry Classification~~
40 System adopted by the United States Office of Management and
41 Budget.
42 a. Computer systems design and related services.
43 b. Software publishers.

- 1 c. Software reproducing.
2 d. Data processing services.
3 e. On-line information services.
4 (5) Development zone. – An area designated as a development zone
5 pursuant to G.S. 105-129.3A.
6 (6) Enterprise tier. – The classification assigned to an area pursuant to
7 G.S. 105-129.3.
8 (7) Full-time job. – A position that requires at least 1,600 hours of work
9 per year and is intended to be held by one employee during the entire
10 year. A full-time employee is an employee who holds a full-time job.
11 (8) Reserved.
12 (9) Large investment. – Defined in G.S. 105-129.4(b1).
13 (10) Machinery and equipment. – Engines, machinery, tools, and
14 implements used or designed to be used in the business for which the
15 credit is claimed. The term does not include real property as defined
16 in G.S. 105-273 or rolling stock as defined in G.S. 105-333.
17 (11) ~~Manufacturing. — Defined Industries in manufacturing sectors 31~~
18 ~~through 33, as defined by NAICS, in the North American Industry~~
19 ~~Classification System adopted by the United States Office of Management~~
20 ~~and Budget, but not including quick printing or retail or commercial~~
21 ~~bakeries.~~
22 (11a) NAICS. – The North American Industry Classification System
23 adopted by the United States Office of Management and Budget.
24 (12) Purchase. – Defined in section 179 of the Code.
25 (13) ~~Warehousing and wholesale trade. — Defined Warehousing. –~~
26 ~~Industries in warehousing and storage subsector 493 as defined by~~
27 ~~NAICS, in the North American Industry Classification System~~
28 ~~adopted by the United States Office of Management and Budget.~~
29 (14) Wholesale trade. – Industries in wholesale trade sector 42 as defined
30 by NAICS.

31 **"§ 105-129.3. Enterprise tier designation.**

32 (a) Tiers Defined. – An enterprise tier one area is a county whose enterprise factor
33 is one of the 10 highest in the State. An enterprise tier two area is a county whose
34 enterprise factor is one of the next 15 highest in the State. An enterprise tier three area is
35 a county whose enterprise factor is one of the next 25 highest in the State. An enterprise
36 tier four area is a county whose enterprise factor is one of the next 25 highest in the State.
37 An enterprise tier five area is any area that is not in a lower-numbered enterprise tier.

38 (b) Annual Designation. – Each year, on or before December 31, the Secretary of
39 Commerce shall assign to each county in the State an enterprise factor that is the sum of
40 the following:

- 41 (1) The county's rank in a ranking of counties by average rate of
42 unemployment from lowest to highest, for the preceding three years.

1 (2) The county's rank in a ranking of counties by average per capita
2 income from highest to lowest, for the preceding three years.

3 (3) The county's rank in a ranking of counties by percentage growth in
4 population from highest to lowest.

5 The Secretary of Commerce shall then rank all the counties within the State according
6 to their enterprise factor from highest to lowest, identify all the areas of the State by
7 enterprise tier, and provide this information to the Secretary of Revenue. An enterprise
8 tier designation is effective only for the calendar year following the designation.

9 In measuring rates of unemployment and per capita income, the Secretary shall use
10 the latest available data published by a State or federal agency generally recognized as
11 having expertise concerning the data. In measuring population growth, the Secretary shall
12 use the most recent estimates of population certified by the State Planning Officer.

13 (c) Exception for Enterprise Tier One Areas. – Notwithstanding the provisions of
14 this section, an enterprise tier one area may not be redesignated as a higher-numbered
15 enterprise tier area until it has been an enterprise tier one area for at least two consecutive
16 years.

17 (d) Exception for Two-County Industrial Park. – For the purpose of this Article, an
18 eligible two-county industrial park that meets all of the following conditions has the
19 lower enterprise tier designation of the designations of the two counties in which it is
20 located:

21 (1) It is located in two contiguous counties, one of which has a lower
22 enterprise tier designation than the other.

23 (2) At least one-third of the park is located in the county with the lower
24 tier designation.

25 (3) It is owned by the two counties or a joint agency of the counties.

26 (4) The county with the lower tier designation contributed at least one-
27 half of the cost of developing the park.

28 (e) Exception for Certain Small Counties. – A county that meets both of the
29 conditions set out below has an enterprise tier designation one level below the
30 designation it would otherwise have under subsection (a) of this section:

31 (1) Its population is less than 35,000 according to the most recent
32 estimates of population certified by the State Planning Officer.

33 (2) More than eighteen percent (18%) of its population is below the
34 federal poverty level according to the most recent federal decennial
35 census.

36 **"§ 105-129.3A. Development zone designation.**

37 (a) Development Zone Defined. – A development zone is an area comprised of
38 one or more contiguous census tracts, census block groups, or both in the most recent
39 federal decennial census that meets all of the following conditions:

40 (1) ~~Every census tract and census block group in the zone is located in~~
41 whole or in part in a city with a population of more than 5,000
42 according to the most recent annual population estimates certified by
43 the State Planning Officer.

- 1 (2) It has a population of 1,000 or more according to the most recent
2 annual population estimates certified by the State Planning Officer.
- 3 (3) More than twenty percent (20%) of its population is below the
4 poverty level according to the most recent federal decennial census.
- 5 (4) Every census tract and census block group in the zone meets at least
6 one of the following conditions:
- 7 a. More than ten percent (10%) of its population is below the
8 poverty level according to the most recent federal decennial
9 census.
- 10 b. It is immediately adjacent to another census tract or census block
11 group that is in the same zone and has more than twenty percent
12 (20%) of its population below the poverty level according to the
13 most recent federal decennial census.
- 14 (5) None of the census tracts or census block groups in the zone is
15 located in another development zone designated by the Secretary of
16 Commerce.

17 (b) Designation. – Upon request of a taxpayer or a local government, the Secretary
18 of Commerce shall designate whether an area is a development zone that meets the
19 conditions of subsection (a) of this section. If the applicant is a taxpayer, it must notify
20 each municipality in which part of the zone is located. The Secretary of Commerce shall
21 make the zone designations annually effective January 1 of each year. To qualify for
22 designation, the application must be filed by the preceding September 1. A development
23 zone designation is effective for 48-24 months following the designation.

24 (c) Relationship With Enterprise Tiers. – For the purpose of the wage standard
25 requirement of G.S. 105-129.3(b), the credit for investing in machinery and equipment
26 allowed in G.S. 105-129.9, and the credit for worker training allowed in G.S. 105-129.11,
27 a development zone is considered an enterprise tier one area. For all other purposes, a
28 development zone has the same enterprise tier designation as the county in which it is
29 located.

30 **"§ 105-129.4. Eligibility; forfeiture.**

31 (a) Type of Business. – A taxpayer is eligible for a credit allowed by G.S. 105-
32 129.12 if the real property for which the credit is claimed is used for a central
33 administrative office that creates at least 40 new jobs. A taxpayer is eligible for the other
34 credits allowed by this Article if the taxpayer engages in one of the following types of
35 businesses and the jobs with respect to which a credit is claimed are created in that
36 business, the machinery and equipment with respect to which a credit is claimed are used
37 in that business, and the research and development for which a credit is claimed are
38 carried out as part of that business:

- 39 (1) Air courier services.
- 40 (2) Central administrative office that creates at least 40 new jobs.
- 41 (3) Data processing.
- 42 (4) Manufacturing.
- 43 (5) Warehousing or wholesale trade.

1 (6) Customer service center located in an enterprise tier one or two area.

2 (a1) Central Administrative Office. – A central administrative office creates at least
3 40 new jobs if the taxpayer hires at least 40 additional full-time employees to fill new
4 positions at the office either in the year the taxpayer first uses the property as a central
5 administrative office or in the preceding 24 months while using temporary space for the
6 central administrative office functions during completion of the administrative office
7 property. Jobs transferred from one area in the State to another area in the State are not
8 considered new jobs for purposes of this subsection.

9 (b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs or the
10 credit for worker training if the jobs for which the credit is claimed meet the wage
11 standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the
12 credit for investing in machinery and equipment, the credit for research and development,
13 or the credit for investing in real property for a central administrative office if the jobs at
14 the location with respect to which the credit is claimed meet the wage standard at the time
15 the taxpayer applies for the credit. Jobs meet the wage standard if they pay an average
16 weekly wage that is at least equal to the applicable percentage times the applicable
17 average weekly wage for the county in which the jobs will be located, as computed by the
18 Secretary of Commerce from data compiled by the Employment Security Commission
19 for the most recent period for which data are available. The applicable percentage for
20 jobs located in an enterprise tier one area is one hundred percent (100%). The applicable
21 percentage for all other jobs is one hundred ten percent (110%). The applicable average
22 weekly wage is the lowest of the following: (i) the average wage for all insured private
23 employers in the county, (ii) the average wage for all insured private employers in the
24 State, and (iii) the average wage for all insured private employers in the county
25 multiplied by the county income/wage adjustment factor. The county income/wage
26 adjustment factor is the county income/wage ratio divided by the State income/wage
27 ratio. The county income/wage ratio is average per capita income in the county divided
28 by the annualized average wage for all insured private employers in the county. The State
29 income/wage ratio is the average per capita income in the State divided by the annualized
30 average wage for all insured private employers in the State.

31 (b1) Large Investment. – A taxpayer who is otherwise eligible for a tax credit under
32 this Article becomes eligible for the large investment enhancements provided for credits
33 under this Article if the Secretary of Commerce certifies that the taxpayer will purchase
34 or lease, and place in service in connection with the eligible business within a two-year
35 period, at least one hundred fifty million dollars (\$150,000,000) worth of one or more of
36 the following: real property, machinery and equipment, or central administrative office
37 property. If the taxpayer fails to make the level of investment certified within this two-
38 year period, the taxpayer forfeits the large investment enhancements as provided in
39 subsection (d) of this section.

40 (b2) Health Insurance. – A taxpayer is eligible for a credit for creating jobs or for
41 worker training under this Article if the taxpayer provides health insurance for the
42 positions for which the credit is claimed at the time the taxpayer applies for the credit. A
43 taxpayer is eligible for the other credits under this Article if the taxpayer provides health

1 insurance for all of the full-time positions at the location with respect to which the credit
2 is claimed at the time the taxpayer applies for the credit. For the purposes of this
3 subsection, a taxpayer provides health insurance if it pays at least fifty percent (50%) of
4 the premiums for health care coverage that equals or exceeds the minimum provisions of
5 the basic health care plan of coverage recommended by the Small Employer Carrier
6 Committee pursuant to G.S. 58-50-125.

7 Each year that a taxpayer claims an installment or carryforward of a credit allowed
8 under this Article, the taxpayer must provide with the tax return the taxpayer's
9 certification that the taxpayer continues to provide health insurance for the jobs for which
10 the credit was claimed or the full-time jobs at the location with respect to which the credit
11 was claimed. If the taxpayer ceases to provide health insurance for the jobs during a
12 taxable year, the credit expires and the taxpayer may not take any remaining installment
13 or carryforward of the credit.

14 (b3) Environmental Impact. – A taxpayer is eligible for a credit allowed under this
15 Article only if the taxpayer has obtained a certification from the Department of
16 Environment and Natural Resources that the business location with respect to which the
17 credit is claimed has not had and will not have a materially adverse effect on the
18 environment.

19 (b4) Safety and Health Programs. – A taxpayer is eligible for a credit allowed under
20 this Article only if the taxpayer has obtained a certification from the Department of Labor
21 that, at the business location with respect to which the credit is claimed, the taxpayer has
22 established and implemented a safety and health program in compliance with the
23 requirements of G.S. 95-251.

24 (c) Repealed by Session Laws 1998-55, s. 1.

25 (d) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the
26 taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. In
27 addition, a taxpayer forfeits a large investment enhancement of a tax credit if the taxpayer
28 fails to make the level of investment certified by the Secretary of Commerce under
29 subsection (b1) of this section within the required two-year period. A taxpayer that
30 forfeits a credit under this Article is liable for all past taxes avoided as a result of the
31 credit plus interest at the rate established under G.S. 105-241.1(i), computed from the
32 date the taxes would have been due if the credit had not been allowed. The past taxes and
33 interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay
34 the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-
35 236. If a taxpayer forfeits the credit for creating jobs or the credit for investing in
36 machinery and equipment, the taxpayer also forfeits any credit for worker training
37 claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the
38 location with respect to which the credit for investing in machinery and equipment was
39 claimed.

40 (e) Change in Ownership of Business. – The sale, merger, acquisition, or
41 bankruptcy of a business, or any transaction by which an existing business reformulates
42 itself as another business, does not create new eligibility in a succeeding business with
43 respect to credits for which the predecessor was not eligible under this Article. A

1 successor business may, however, take any installment of or carried-over portion of a
2 credit that its predecessor could have taken if it had a tax liability. The acquisition of a
3 business is a new investment that creates new eligibility in the acquiring taxpayer under
4 this Article if any of the following conditions are met:

5 (1) The business closed before it was acquired.

6 (2) The business was required to file a notice of plant closing or mass
7 layoff under the federal Worker Adjustment and Retraining
8 Notification Act, 29 U.S.C. § 2102, before it was acquired.

9 (3) The business was acquired by its employees through an employee
10 stock option transaction or another similar mechanism.

11 (f) Development Zone Project Credit. – Subsections (a) through (b4) of this
12 section to not apply to the credit for development zone projects.

13 **"§ 105-129.5. Tax election; cap.**

14 (a) Tax Election. – The credits provided in this Article are allowed against the
15 franchise tax levied in Article 3 of this ~~Chapter and Chapter~~, the income taxes levied in
16 Article 4 of this ~~Chapter~~. ~~The credit for investing in central administrative office property~~
17 ~~provided in G.S. 105-129.12 is also allowed against Chapter~~, and the gross premiums tax
18 levied in Article 8B of this Chapter. The taxpayer shall elect the tax against which a
19 credit will be claimed when filing the return on which the first installment of the credit is
20 claimed. This election is binding. Any carryforwards of the credit must be claimed
21 against the same tax.

22 (b) Cap. – The credits allowed under this Article may not exceed fifty percent
23 (50%) of the tax against which they are claimed for the taxable year, reduced by the sum
24 of all other credits allowed against that tax, except tax payments made by or on behalf of
25 the taxpayer. This limitation applies to the cumulative amount of credit, including
26 carryforwards, claimed by the taxpayer under this Article against each tax for the taxable
27 year. Any unused portion of a credit with respect to a large investment may be carried
28 forward for the succeeding 20 years. Any unused portion of any other credit may be
29 carried forward for the succeeding five years.

30 **"§ 105-129.6. Application; reports.**

31 (a) Application. – To claim the credits allowed by this Article, the taxpayer must
32 provide with the tax return the certification of the Secretary of Commerce that the
33 taxpayer meets all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13,
34 as applicable, with respect to each credit. A taxpayer shall apply to the Secretary of
35 Commerce for certification of eligibility. The application must be on a form provided by
36 the Secretary of Commerce and must contain any information necessary for the Secretary
37 of Commerce to determine whether the taxpayer meets the eligibility requirements. In
38 addition, the application must state the number of jobs to be created that are located
39 within a development zone, the number of jobs to be created that will be filled by
40 employees residing within the development zone, and the number of jobs to be created
41 that will be filled by employees residing within a census tract or census block group that
42 has more than twenty percent (20%) of its population below the poverty level according
43 to the most recent federal decennial census.

1 If the Secretary of Commerce determines that the taxpayer meets all of the eligibility
2 requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to a
3 credit, the Secretary shall issue a certificate describing the location with respect to which
4 the credit is claimed, outlining the eligibility requirements for the credit, and stating that
5 the taxpayer meets the eligibility requirements. If the Secretary of Commerce determines
6 that the taxpayer does not meet all of the eligibility requirements of G.S. 105-129.4 or
7 G.S. 105-129.13, as applicable, with respect to a credit, the Secretary must advise the
8 taxpayer in writing of the eligibility requirements the taxpayer fails to meet. The
9 Secretary of Commerce may adopt rules in accordance with Chapter 150B of the General
10 Statutes that are needed to carry out the Secretary of Commerce's responsibilities under
11 this section.

12 (a1) Fee. – When filing an application for certification under this section, the
13 taxpayer must pay the Department of Commerce a fee ~~of seventy five dollars (\$75.00).~~ Fees
14 collected under this subsection are receipts of the Department of Commerce. of five hundred
15 dollars (\$500.00) for each credit the taxpayer intends to claim with respect to a location
16 that is in an enterprise tier three, four, or five area, subject to a maximum fee of one
17 thousand five hundred dollars (\$1,500) per taxpayer per taxable year. If the taxpayer
18 applies for certification for a credit that relates to locations in more than one enterprise
19 tier area, the fee is based on the highest-numbered enterprise tier area.

20 The Secretary of Commerce shall retain one-fourth of the proceeds of the fee imposed
21 in this section for the costs of administering this section. The Secretary of Commerce
22 shall credit the remaining proceeds of the fee imposed in this section to the Department
23 of Revenue for the costs of administering and auditing the credits allowed in this Article.
24 The proceeds of the fee are receipts of the Department to which they are credited.

25 (b) Reports. – The Department of Commerce shall report to the Department of
26 Revenue and to the Fiscal Research Division of the General Assembly by May 1 of each
27 year the following information for the 12-month period ending the preceding April 1:

- 28 (1) The number of applications for each credit allowed in this Article.
- 29 (2) The number and enterprise tier area of new jobs with respect to
30 which credits were applied for.
- 31 (3) The cost of machinery and equipment with respect to which credits
32 were applied for.
- 33 (4) The number of new jobs created within development zones, and the
34 percentage of those jobs that were filled by residents of the zones.

35 **"§ 105-129.7. Substantiation.**

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

43 **"§ 105-129.8. Credit for creating jobs.**

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

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

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

If, in one of the four years in which the installment of a credit accrues, the number of the taxpayer's full-time employees falls below the number of full-time employees the taxpayer had in the year in which the taxpayer qualified for the credit, the credit expires and the taxpayer may not take any remaining installment of the credit. 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. 105-129.5.

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

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

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

(d) Planned Expansion. – A taxpayer that signs a letter of commitment with the Department of Commerce to create at least twenty new full-time jobs in a specific area within two years of the date the letter is signed qualifies for the credit in the amount allowed by this section based on the area's enterprise tier and development zone designation for that year even though the employees are not hired that year. The credit shall be available in the taxable year after at least twenty employees have been hired if the hirings are within the two-year commitment period. The conditions outlined in subsection (a) apply to a credit taken under this subsection except that if the area is

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

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

10 **"§ 105-129.9. Credit for investing in machinery and equipment.**

11 (a) Credit. – If a taxpayer that has purchased or leased eligible machinery and
 12 equipment places it in service in this State during the taxable year, the taxpayer is
 13 allowed a credit equal to seven percent (7%) of the excess of the eligible investment
 14 amount over the applicable threshold. Machinery and equipment is eligible if it is
 15 capitalized by the taxpayer for tax purposes under the Code and is not leased to another
 16 party. In addition, in the case of a large investment, machinery and equipment that is not
 17 capitalized by the taxpayer is eligible if the taxpayer leases it from another party. The
 18 credit may not be taken for the taxable year in which the equipment is placed in service
 19 but shall be taken in equal installments over the seven years following the taxable year in
 20 which the equipment is placed in service.

21 (b) Eligible Investment Amount. – The eligible investment amount is the lesser of
 22 (i) the cost of the eligible machinery and equipment and (ii) the amount by which the cost
 23 of all of the taxpayer's eligible machinery and equipment that is in service in this State on
 24 the last day of the taxable year exceeds the cost of all of the taxpayer's eligible machinery
 25 and equipment that was in service in this State on the last day of the base year. The base
 26 year is that year, of the three immediately preceding taxable years, in which the taxpayer
 27 had the most eligible machinery and equipment in service in this State.

28 (c) Threshold. – The applicable threshold is the appropriate amount set out in the
 29 following table based on the enterprise tier of the area where the eligible machinery and
 30 equipment are placed in service during the taxable year. If the taxpayer places eligible
 31 machinery and equipment in service in more than one area during the taxable year, the
 32 threshold applies separately to the eligible machinery and equipment placed in service in
 33 each area. If the taxpayer places eligible machinery and equipment in service in an area
 34 over the course of a two-year period, the applicable threshold for the second taxable year
 35 is reduced by the eligible investment amount for the previous taxable year.

Area Enterprise Tier	Threshold
Tier One \$ -0-	
Tier Two 100,000	
Tier Three	200,000
Tier Four 500,000	
Tier Five 1,000,000	

42 (d) Expiration. – If, in one of the seven years in which the installment of a credit
 43 accrues, the machinery and equipment with respect to which the credit was claimed are

1 disposed of, taken out of service, or moved out of State, the credit expires and the
2 taxpayer may not take any remaining installment of the credit. The taxpayer may,
3 however, take the portion of an installment that accrued in a previous year and was
4 carried forward to the extent permitted under G.S. 105-129.5.

5 If, in one of the seven years in which the installment of a credit accrues, the
6 machinery and equipment with respect to which the credit was claimed are moved to an
7 area in a higher-numbered enterprise tier, or are moved from a development zone to an
8 area that is not a development zone, the remaining installments of the credit are allowed
9 only to the extent they would have been allowed if the machinery and equipment had
10 been placed in service initially in the area to which they were moved.

11 (e) Planned Expansion. – A taxpayer that signs a letter of commitment with the
12 Department of Commerce to place specific eligible machinery and equipment in service
13 in an area within two years after the date the letter is signed may, in the year the eligible
14 machinery and equipment are placed in service in that area, calculate the credit for which
15 the taxpayer qualifies based on the area's enterprise tier and development zone
16 designation for the year the letter was signed. All other conditions apply to the credit, but
17 if the area has been redesignated to a higher-numbered enterprise tier or has lost its
18 development zone designation after the year the letter of commitment was signed, the
19 credit is allowed based on the area's enterprise tier and development zone designation for
20 the year the letter was signed. If the taxpayer does not place part or all of the specified
21 eligible machinery and equipment in service within the two-year period, the taxpayer
22 does not qualify for the benefit of this subsection with respect to the machinery and
23 equipment not placed in service within the two-year period. However, if the taxpayer
24 qualifies for a credit in the year the eligible machinery and equipment are placed in
25 service, the taxpayer may take the credit for that year as if no letter of commitment had
26 been signed pursuant to this subsection.

27 **"§ 105-129.10. Credit for research and development.**

28 (a) General Credit. – A taxpayer that claims for the taxable year a federal income
29 tax credit under section 41(a) of the Code for increasing research activities is allowed a
30 credit equal to five percent (5%) of the State's apportioned share of the taxpayer's
31 expenditures for increasing research activities. The State's apportioned share of a
32 taxpayer's expenditures for increasing research activities is the excess of the taxpayer's
33 qualified research expenses for the taxable year over the base amount, as determined
34 under section 41 of the Code, multiplied by a percentage equal to the ratio of the
35 taxpayer's qualified research expenses in this State for the taxable year to the taxpayer's
36 total qualified research expenses for the taxable year.

37 (b) Alternative Credit. – A taxpayer that claims the alternative incremental credit
38 under section 41(c)(4) of the Code for increasing research activities is allowed a credit
39 equal to twenty-five percent (25%) of the State's apportioned share of the federal credit
40 claimed. The State's apportioned share of the federal credit claimed is the amount of the
41 alternative incremental credit the taxpayer claimed under section 41(c)(4) of the Code for
42 the taxable year multiplied by a percentage equal to the ratio of the taxpayer's qualified
43 research expenses in this State for the taxable year to the taxpayer's total qualified

1 research expenses for the taxable year. For the purpose of this subsection, the amount of
2 the alternative incremental credit claimed by a taxpayer is determined without regard to
3 any reduction elected under section 280C(c) of the Code.

4 (c) Definitions. – As used in this section, the terms "qualified research
5 expenses" and "base amount" have the meaning provided in section 41 of the Code.
6 Notwithstanding G.S. 105-228.90(b), as used in this section, the term "Code" means the
7 Internal Revenue Code as enacted as of January 1, 1999.

8 **"§ 105-129.11. Credit for worker training.**

9 (a) Credit. – A taxpayer that provides worker training for five or more of its
10 eligible employees during the taxable year is allowed a credit equal to the wages paid to
11 the eligible employees during the training. Wages paid to an employee performing his or
12 her job while being trained are not eligible for the credit. For positions located in an
13 enterprise tier one area, the credit may not exceed one thousand dollars (\$1,000) per
14 employee trained during the taxable year. For other positions, the credit may not exceed
15 five hundred dollars (\$500.00) per employee trained during the taxable year. A position is
16 located in an area if more than fifty percent (50%) of the employee's duties are performed
17 in the area.

18 (b) Eligibility. – An employee is eligible if the employee is in a full-time position
19 not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. § 213(a)(1) and
20 meets one or more of the following conditions:

- 21 (1) The employee occupies a job for which the taxpayer is eligible to claim
22 an installment of the credit for creating jobs.
- 23 (2) The employee is being trained to operate machinery and equipment for
24 which the taxpayer is eligible to claim an installment of the credit for
25 investing in machinery and equipment.

26 **"§ 105-129.12. Credit for investing in central administrative office property.**

27 (a) Credit. – If a taxpayer that has purchased or leased real property in this State
28 begins to use the property as a central administrative office during the taxable year, the
29 taxpayer is allowed a credit equal to seven percent (7%) of the eligible investment
30 amount. The eligible investment amount is the lesser of (i) the cost of the property and
31 (ii) the amount by which the cost of all of the property the taxpayer is using in this State
32 as central administrative offices on the last day of the taxable year exceeds the cost of all
33 of the property the taxpayer was using in this State as central administrative offices on
34 the last day of the base year. The base year is that year, of the three immediately
35 preceding taxable years, in which the taxpayer was using the most property in this State
36 as central administrative offices. In the case of property that is leased, the cost of the
37 property is not determined as provided in G.S. 105-129.2 but is considered to be the
38 taxpayer's lease payments over a seven-year period, plus any expenditures made by the
39 taxpayer to improve the property before it is used as the taxpayer's central administrative
40 office if the expenditures are not reimbursed or credited by the lessor. The maximum
41 credit allowed a taxpayer under this section for property used as a central administrative
42 office is five hundred thousand dollars (\$500,000). The entire credit may not be taken for
43 the taxable year in which the property is first used as a central administrative office but

1 shall be taken in equal installments over the seven years following the taxable year in
2 which the property is first used as a central administrative office. The basis in any real
3 property for which a credit is allowed under this section shall be reduced by the amount
4 of credit allowable.

5 (b) Mixed Use Property. – If the taxpayer uses only part of the property as the
6 taxpayer's central administrative office, the amount of the credit allowed under this
7 section is reduced by multiplying it by a fraction the numerator of which is the square
8 footage of the property used as the taxpayer's central administrative office and the
9 denominator of which is the total square footage of the property.

10 (c) Expiration. – If, in one of the seven years in which the installment of a credit
11 accrues, the property with respect to which the credit was claimed is no longer used as a
12 central administrative office, the credit expires and the taxpayer may not take any
13 remaining installment of the credit. If, in one of the seven years in which the installment
14 of a credit accrues, part of the property with respect to which the credit was claimed is no
15 longer used as a central administrative office, the remaining installments of the credit
16 shall be reduced by multiplying it by the fraction described in subsection (b) of this
17 section. If, in one of the seven years in which the installment of a credit accrues, the total
18 number of employees the taxpayer employs at all of its central administrative offices in
19 this State drops by 40 or more, the credit expires and the taxpayer may not take any
20 remaining installment of the credit.

21 In each of these cases, the taxpayer may nonetheless take the portion of an installment
22 that accrued in a previous year and was carried forward to the extent permitted under
23 G.S. 105-129.5.

24 **"§ 105-129.13. Credit for development zone projects.**

25 (a) Credit. – A taxpayer who contributes cash or property to a development zone
26 agency for an improvement project in a development zone is allowed a credit equal to
27 twenty-five percent (25%) of the value of the contribution. A contribution is for an
28 improvement project for the purposes of this section if the agency receiving the
29 contribution contracts in writing to use the contribution for the project and agrees in the
30 contract to repay to the taxpayer, with interest, any part of the contribution not used for
31 the project. The credit may not be taken for the year in which the contribution is made
32 but must be taken for the taxable year beginning during the calendar year in which the
33 application for the credit becomes effective as provided in this section.

34 (b) Definitions. – The following definitions apply in this section:

35 (1) Community development corporation. – A nonprofit corporation that
36 meets all of the following conditions:

37 a. It is chartered pursuant to Chapter 55A of the General Statutes
38 and is tax-exempt pursuant to section 501(c)(3) of the Code.

39 b. Its primary mission is to develop and improve low-income
40 communities and neighborhoods through economic and related
41 development.

42 c. Its activities and decisions are initiated, managed, and controlled
43 by the constituents of those local communities.

1 d. Its primary function is to act as deal maker and packager of
2 projects and activities that will increase its constituency's
3 opportunities to become owners, managers, and producers of
4 small businesses, to obtain affordable housing, and to obtain jobs
5 designed to produce positive cash flow and curb blight in the
6 targeted community.

7 (2) Control. – A person controls an entity if the person owns, directly or
8 indirectly, more than ten percent (10%) of the voting securities of that
9 entity. As used in this subdivision, the term 'voting security' means a
10 security that (i) confers upon the holder the right to vote for the election
11 of members of the board of directors or similar governing body of the
12 business or (ii) is convertible into, or entitles the holder to receive upon
13 its exercise, a security that confers such a right to vote. A general
14 partnership interest is a voting security.

15 (3) Development zone agency. – Any of the following agencies that the
16 Department of Commerce certifies will undertake an improvement
17 project in a development zone:

18 a. A community development corporation.

19 b. A community development financial institution certified by the
20 United States Department of the Treasury under the Community
21 Development Banking and Financial Institutions Act of 1994, 12
22 U.S.C. § 4701, et seq.

23 c. A local housing authority created under Article 1 of Chapter 157
24 of the General Statutes.

25 (4) Improvement project. – A project to construct or improve residential,
26 commercial, or public real property located in a development zone. The
27 term includes services provided by a development zone agency directly
28 related to the construction or improvement, and project development
29 fees charged by a developer for the construction or improvement.

30 (c) Certification. – The Secretary of Commerce shall not certify a development
31 zone agency under this section if the agency, any of the agency's officers or directors, or
32 any partner of the agency has ever used any part of a contribution made under this section
33 for any purpose other than an improvement project.

34 (d) Limitations. – A taxpayer who claims a credit under this subsection must
35 identify in the application the development zone agencies to which the taxpayer made
36 contributions and the amount contributed to each. No credit is allowed for a contribution
37 if the taxpayer is related to the development zone agency as defined in section 1313 of
38 the Code or if the taxpayer controls, is controlled by, or is under common control with an
39 affiliate of the development zone agency. No credit is allowed to the extent the taxpayer
40 receives anything of value in exchange for the contribution.

41 (e) Application. – To be eligible for the tax credit provided in this section, in
42 addition to the application required under G.S. 105-129.6, the taxpayer must file an
43 application for the credit with the Secretary of Revenue on or before April 15 of the year

1 following the calendar year in which the contribution was made. The Secretary may
2 grant extensions of this deadline, as the Secretary finds appropriate, upon the request of
3 the taxpayer, except that the application may not be filed after September 15 of the year
4 following the calendar year in which the contribution was made. An application is
5 effective for the year in which it is timely filed. The application must be on a form
6 prescribed by the Secretary and must include any supporting documentation that the
7 Secretary may require. If a contribution for which a credit is applied for was of property
8 rather than cash, the taxpayer must include with the application a certified appraisal of
9 the value of the property contributed.

10 (f) Ceiling. – The total amount of all tax credits allowed to taxpayers under this
11 section for contributions made in a calendar year may not exceed four million dollars
12 (\$4,000,000). The Secretary of Revenue must calculate the total amount of tax credits
13 claimed from the applications filed under this section. If the total amount of tax credits
14 claimed for contributions made in a calendar year exceeds four million dollars
15 (\$4,000,000), the Secretary must allow a portion of the credits claimed by allocating a
16 total of four million dollars (\$4,000,000) in tax credits in proportion to the size of the
17 credit claimed by each taxpayer. If a credit is reduced pursuant to this subsection, the
18 Secretary must notify the taxpayer of the amount of the reduction of the credit on or
19 before December 31 of the year the application was filed. The Secretary's allocations
20 based on applications filed pursuant to this section are final and will not be adjusted to
21 account for credits applied for but not claimed.

22 (g) Forfeiture. – A taxpayer forfeits a credit allowed under this section to the
23 extent the development zone agency uses the taxpayer's contribution for any purpose
24 other than an improvement project. Each development zone agency certified by the
25 Department of Commerce must file with the Department of Commerce annual financial
26 statements audited in accordance with generally accepted accounting principles and in
27 accordance with Government Audit Standards developed by the Comptroller General of
28 the United States. The annual statements are required each time the agency receives a
29 contribution eligible for the credit allowed under this section until the entire contribution
30 has been used for improvement projects. If the Department of Commerce determines that
31 a development zone agency has used part or all of a contribution for any purpose other
32 than an improvement project, the Department must notify the Secretary of Revenue of the
33 forfeiture, the taxpayer who made the contribution, and the amount forfeited."

34 PART II. SALES TAX CHANGES

35 Section 3.(a) G.S. 105-164.4(a)(1d)a. through k. are recodified as G.S. 105-
36 164.4A.

37 Section 3.(b) G.S. 105-164.4(a)(1d), as amended by this section, reads as
38 rewritten:

39 "(1d) The rate of one percent (1%) applies to the sales price of the
40 ~~following articles—~~articles listed in G.S. 105-164.4A. The maximum
41 tax is eighty dollars (\$80.00) per article."

42 Section 3.(c) G.S. 105-164.4A, as recodified by this section, reads as rewritten:
43 **"§ 105-164.4A. Articles taxed at one percent (1%), eighty dollars (\$80.00).**

1 The following articles are taxable under G.S. 105-164.4(a)(1d):

2 ~~a.~~(1) Farm machinery. – Sales to a farmer of machines and machinery,
3 and parts and accessories for these machines and machinery, for use
4 by the farmer in the planting, cultivating, harvesting, or curing of
5 farm crops or in the production of dairy products, eggs, or animals.
6 A "farmer" includes a dairy operator, a poultry farmer, an egg
7 producer, a livestock farmer, a farmer of crops, and a farmer of an
8 aquatic species, as defined in G.S. 106-758. Items that are exempt
9 from tax under G.S. 105-164.13(4c) are not subject to tax under ~~this~~
10 ~~section.~~ G.S. 105-164.4.

11 The term "machines and machinery" as used in this subdivision is
12 defined as follows:

13 The term shall include all vehicular implements, designed and sold
14 for any use defined in this subdivision, which are operated, drawn or
15 propelled by motor or animal power, but shall not include vehicular
16 implements which are operated wholly by hand, and shall not include
17 any motor vehicles required to be registered under Chapter 20 of the
18 General Statutes.

19 The term shall include all nonvehicular implements and mechanical
20 devices designed and sold for any use defined in this subdivision, which
21 have moving parts, or which require the use of any motor or animal
22 power, fuel, or electricity in their operation but shall not include
23 nonvehicular implements which have no moving parts and are operated
24 wholly by hand.

25 The term shall also include metal flues sold for use in curing
26 tobacco, whether such flues are attached to handfired furnaces or used
27 in connection with mechanical burners.

28 ~~b.~~(2) Manufacturing machinery. – Sales of mill machinery or mill
29 machinery parts and accessories to manufacturing industries and
30 plants, and sales to contractors and subcontractors purchasing mill
31 machinery or mill machinery parts and accessories for use by them
32 in the performance of contracts with manufacturing industries and
33 plants, and sales to subcontractors purchasing mill machinery or mill
34 machinery parts and accessories for use by them in the performance
35 of contracts with general contractors who have contracts with
36 manufacturing industries and plants. As used in this paragraph, the
37 term "manufacturing industries and plants" does not include
38 delicatessens, cafes, cafeterias, restaurants, and other similar retailers
39 that are principally engaged in the retail sale of foods prepared by
40 them for consumption on or off their premises.

41 ~~c.~~(3) Telephone company property. – Sales of central office equipment
42 and switchboard and private branch exchange equipment to
43 telephone companies regularly engaged in providing telephone

1 service to subscribers on a commercial basis, and sales to these
2 companies of prewritten computer programs used in providing
3 telephone service to their subscribers.

4 ~~d.~~(4) Laundry machinery. – Sales to commercial laundries or to pressing
5 and dry cleaning establishments of machinery used in the direct
6 performance of the laundering or the pressing and cleaning service
7 and of parts and accessories thereto.

8 ~~e.~~(5) Freezer plant machinery. – Sales to freezer locker plants of
9 machinery used in the direct operation of ~~said~~ the freezer locker plant
10 and of parts and accessories thereto.

11 ~~f.~~(6) Broadcasting machinery. – Sales of broadcasting equipment and
12 parts and accessories thereto and towers to commercial radio and
13 television companies which are under the regulation and supervision
14 of the Federal Communications Commission.

15 ~~g.~~(7) Tobacco equipment. – Sales to farmers of bulk tobacco barns and
16 racks and all parts and accessories thereto and similar apparatus used
17 for the curing and drying of any farm produce.

18 ~~h.~~(8) Farm storage facilities. – Sales to farmers of grain, feed or soybean
19 storage facilities and accessories thereto, whether or not dryers are
20 attached, and all similar apparatus and accessories thereto for the
21 storage of grain, feed or soybeans.

22 ~~i.~~(9) Farm containers. – Sales of containers to farmers or producers for
23 use in the planting, producing, harvesting, curing, marketing,
24 packaging, sale, or transporting or delivery of their products when
25 such containers do not go with and become part of the sale of their
26 products at wholesale or retail.

27 ~~j.~~(10) Recycling facility equipment. – Sales to a major recycling facility
28 of the following tangible personal property for use in connection
29 with the facility: cranes, structural steel crane support systems,
30 foundations related to the cranes and support systems, port and
31 dock facilities, rail equipment, and material handling equipment.

32 ~~k.~~(11) (Effective January 1, 2001) Air courier equipment. – Sales of the
33 following items to an interstate air courier for use at its hub:
34 materials handling equipment, racking systems, and related parts
35 and accessories, for the storage or handling and movement of
36 tangible personal property at an airport or in a warehouse or
37 distribution facility."

38 Section 4. G.S. 105-164.4A, as recodified by this act, is amended by adding a
39 new subdivision to read:

40 "(12) Distress tier equipment. – Sales of machinery and equipment as
41 defined in G.S. 105-129.2 to a person engaged in one of the
42 businesses listed in G.S. 105-129.4(a) for use in an enterprise tier

1 one area or an enterprise tier two area, as defined in G.S. 105-
2 129.3."

3 Section 5. G.S. 105-164.14 is amended by adding a new subsection to read:

4 "(h) Nonprofit Insurance Companies. –

5 (1) Refunds. – An eligible nonprofit insurance company is allowed an
6 annual refund of sales and use taxes paid by it under this Article
7 before January 1, 2005, on building materials, building supplies,
8 fixtures, and equipment that become a part of its real property.
9 Liability incurred indirectly by the company for sales and use taxes
10 on these items is considered tax paid by the company. A request
11 for a refund must be in writing and must include any information
12 and documentation required by the Secretary. A request for a
13 refund is due within six months after the end of the insurance
14 company's fiscal year. Refunds applied for after the due date are
15 barred.

16 (2) Eligibility. – An insurance company is eligible for the refund
17 provided in this subsection if it meets all of the following
18 conditions:

19 a. It is a nonprofit corporation.

20 b. It is operated for the exclusive purpose of providing insurance
21 and annuity contracts to or for the benefit of organizations
22 exempt from federal income tax under section 501(c)(3) of the
23 Code, and their employees.

24 c. The Secretary of Commerce has certified that the insurance
25 company will invest at least ten million dollars (\$10,000,000) in
26 constructing a facility in this State for the conduct of its
27 operations.

28 (3) Forfeiture. – If an eligible insurance company does not make the
29 required minimum investment within five years after its first refund
30 under this subsection, it loses its eligibility and forfeits all refunds
31 already received under this subsection. Upon forfeiture, the
32 company is liable for tax under this Article equal to the amount of
33 all past taxes refunded under this subsection, plus interest at the
34 rate established in G.S. 105-241.1(i), computed from the date the
35 taxes would have been due if the tax refunds had not been received.
36 The tax and interest are due 30 days after the date of the forfeiture.
37 A company that fails to pay the tax and interest is subject to the
38 penalties provided in G.S. 105-236."

39 Section 6.(a) G.S. 105-164.3 is amended by adding a new subdivision to read:

40 "(6e) Interstate passenger air carrier. – A person whose primary business
41 is scheduled passenger air transportation, as defined in the North
42 American Industry Classification System adopted by the United
43 States Office of Management and Budget, in interstate commerce."

1 Section 6.(b) G.S. 105-164.3(6b), as enacted by S.L. 1998-55, becomes
2 effective May 1, 1999.

3 Section 6.(c) G.S. 105-164.3(6b) reads as rewritten:

4 "(6b) Hub. —~~An interstate air courier's~~ Either of the following:

5 a. An interstate air courier's hub is the airport in this State that
6 meets all of the following conditions:

7 a.1. The air courier has allocated to the airport under G.S.
8 ~~105-388-105-338~~ more than sixty percent (60%) of its
9 aircraft value apportioned to this State.

10 b.2. The air courier's primary function at the airport is to
11 sort and distribute letters and packages received from
12 multiple consolidation locations.

13 e.3. The air courier's primary function at the airport is not
14 to consolidate letters and packages and deliver them
15 to another airport for sorting and distribution.

16 b. An interstate passenger air carrier's hub is the airport in this State
17 that meets both of the following conditions:

18 1. The air carrier has allocated to the airport under G.S. 105-
19 338 more than sixty percent (60%) of its aircraft value
20 apportioned to this State.

21 2. The majority of the air carrier's passengers boarding at the
22 airport are connecting from other airports rather than
23 originating at that airport."

24 Section 7.(a) Section 9 of S.L. 1998-55 is repealed.

25 Section 7.(b) G.S. 105-164.13 is amended by adding a new subdivision to read:

26 "(45) Sales of the following items to an interstate passenger air carrier for
27 use at its hub: aircraft lubricants, aircraft repair parts, and aircraft
28 accessories."

29 Section 7.(c). Effective January 1, 2001, G.S. 105-164.13(45), as enacted by
30 this act, reads as rewritten:

31 "(45) Sales of the following items to an interstate passenger air carrier or
32 an interstate air courier for use at its hub: aircraft lubricants,
33 aircraft repair parts, and aircraft accessories."

34 Section 8. G.S. 105-164.4A, as recodified by this act, is amended by adding a
35 new subdivision to read:

36 "(13) Pilot training equipment. – Sales to an interstate passenger air
37 carrier or an interstate air courier of aircraft simulators for pilot
38 training for use at the air carrier or air courier's hub."

39 Section 9. G.S. 105-164.14(a) reads as rewritten:

40 "(a) Interstate Carriers. – An interstate carrier is allowed a refund, in accordance
41 with this section, of part of the sales and use taxes paid by it on fuel, lubricants, repair
42 parts, and accessories purchased in this State for a motor vehicle, railroad car,
43 locomotive, or airplane the carrier operates. An 'interstate carrier' is a person who is

1 engaged in transporting persons or property in interstate commerce for compensation.
2 The Secretary shall prescribe the periods of time, whether monthly, quarterly,
3 semiannually, or otherwise, with respect to which refunds may be claimed, and shall
4 prescribe the time within which, following these periods, an application for refund may
5 be made.

6 An applicant for refund shall furnish the following information and any proof of the
7 information required by the Secretary:

- 8 (1) A list identifying the lubricants, repair parts, and accessories
9 purchased by the applicant inside or outside this State during the
10 refund period.
- 11 (2) The purchase price of the items listed in subdivision (1) of this
12 subsection.
- 13 (3) The sales and use taxes paid in this State on the listed items.
- 14 (4) The number of miles the applicant's motor vehicles, railroad cars,
15 locomotives, and airplanes were operated both inside and outside
16 this State during the refund period.
- 17 (5) Any other information required by the Secretary.

18 For each applicant, the Secretary shall compute the amount to be refunded as follows.
19 First, the Secretary shall determine the ratio of the number of miles the applicant operated
20 its motor vehicles, railroad cars, locomotives, and airplanes in this State during the refund
21 period to the number of miles it operated them both inside and outside this State during
22 the refund period. Second, the Secretary shall determine the applicant's proportional
23 liability for the refund period by multiplying this mileage ratio by the purchase price of
24 the items identified in subdivision (1) of this subsection and then multiplying the
25 resulting product by the tax rate that would have applied to the items if they had all been
26 purchased in this State. Third, the Secretary shall refund to each applicant the excess of
27 the amount of sales and use taxes the applicant paid in this State during the refund period
28 on these items over the applicant's proportional liability for the refund period."

29 **PART III. AFFORDABLE HOUSING TAX CREDIT**

30 Section 10. The title of Article 3B of Chapter 105 of the General Statutes reads
31 as rewritten:

32 **"ARTICLE 3B.**

33 **"BUSINESS TAX CREDIT- CREDITS."**

34 Section 11. Article 3B of Chapter 105 of the General Statutes is amended by
35 adding a new section to read:

36 **"§ 105-129.16A. Credit for low-income housing.**

37 (a) Credit. – A taxpayer that is allowed for the taxable year a federal income tax
38 credit for low-income housing under section 42 of the Code with respect to a qualified
39 North Carolina low-income building, is allowed a credit under this Article equal to
40 twenty-five percent (25%) of the federal credit allowed with respect to that building. The
41 credit must be taken in equal installments over the five years beginning in the first
42 taxable year in which the federal credit is claimed for that building.

1 (b) Definitions. – The definitions in section 42 of the Code apply in this section.
2 In addition, as used in this section the term ‘qualified North Carolina low-income
3 building’ means a qualified low-income building that meets either of the following
4 conditions:

5 (1) It is located in a tier one or two enterprise area, as defined in G.S. 105-
6 129.3, or in a development zone, as defined in G.S. 105-129.3A.

7 (2) It is located in a tier three, four, or five enterprise area and forty percent
8 (40%) of its residential units are both rent-restricted and occupied by
9 individuals whose income is thirty-five percent (35%) or less of area
10 median gross income.

11 (c) Forfeiture. – If the taxpayer is required under section 42(j) of the Code to
12 recapture all or part of a federal credit under that section with respect to a qualified North
13 Carolina low-income building, the taxpayer forfeits the corresponding part of the credit
14 allowed under this section with respect to that qualified North Carolina low-income
15 building. A taxpayer that forfeits a credit under this section is liable for all past taxes
16 avoided as a result of the credit plus interest at the rate established under G.S. 105-
17 241.1(i), computed from the date the taxes would have been due if the credit had not been
18 allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a
19 taxpayer that fails to pay the past taxes and interest by the due date is subject to the
20 penalties provided in G.S. 105-236."

21 Section 12. Reserved.

22 Section 13. G.S. 105-129.17 reads as rewritten:

23 **"§ 105-129.17. Tax election; cap.**

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

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

36 Section 14. G.S. 105-129.18 reads as rewritten:

37 **"§ 105-129.18. Substantiation.**

38 To claim the ~~credit~~ credits allowed by this Article, the taxpayer must provide any
39 information required by the Secretary of Revenue. Every taxpayer claiming a credit under
40 this Article must maintain and make available for inspection by the Secretary of Revenue
41 any records the Secretary considers necessary to determine and verify the amount of the
42 credit to which the taxpayer is entitled. The burden of proving eligibility for the credit
43 and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a

1 taxpayer that fails to maintain adequate records or to make them available for
2 inspection."

3 Section 15. G.S. 105-129.19 reads as rewritten:

4 **"§ 105-129.19. Reports.**

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

8 (1) The number of taxpayers that claimed the ~~credit~~ credits allowed in this
9 Article.

10 (2) The cost of business property with respect to which business property
11 credits were claimed.

12 (2a) The location of each qualified North Carolina low-income building with
13 respect to which a low-income housing credit was claimed.

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

15 Section 16. G.S. 105-241.1(e) reads as rewritten:

16 "(e) Statute of Limitations. – There is no statute of limitations and the Secretary
17 may propose an assessment of tax due from a taxpayer at any time if (i) the taxpayer did
18 not file a proper application for a license or did not file a return, (ii) the taxpayer filed a
19 false or fraudulent application or return, or (iii) the taxpayer attempted in any manner to
20 fraudulently evade or defeat the tax.

21 If a taxpayer files a return reflecting a federal determination as provided in G.S. 105-
22 29, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, the Secretary must
23 propose an assessment of any tax due within one year after the return is filed or within
24 three years of when the original return was filed or due to be filed, whichever is later. If
25 there is a federal determination and the taxpayer does not file the required return, the
26 Secretary must propose an assessment of any tax due within three years after the date the
27 Secretary received the final report of the federal determination. If

28 If a taxpayer forfeits a tax credit pursuant to G.S. 105-163.014 or Article 3A of or tax
29 benefit pursuant to forfeiture provisions of this Chapter, the Secretary must assess any tax
30 due as a result of the forfeiture within three years after the date of the forfeiture. If a
31 taxpayer elects under section 1033(a)(2)(A) of the Code not to recognize gain from
32 involuntary conversion of property into money, the Secretary must assess any tax due as
33 a result of the conversion or election within the applicable period provided under section
34 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code. If a taxpayer sells at a gain the
35 taxpayer's principal residence, the Secretary must assess any tax due as a result of the sale
36 within the period provided under section 1034(j) of the Code.

37 In all other cases, the Secretary must propose an assessment of any tax due from a
38 taxpayer within three years after the date the taxpayer filed an application for a license or
39 a return or the date the application or return was required by law to be filed, whichever is
40 later.

41 If the Secretary proposes an assessment of tax within the time provided in this section,
42 the final assessment of the tax is timely.

1 A taxpayer may make a written waiver of any of the limitations of time set out in this
2 subsection, for either a definite or an indefinite time. If the Secretary accepts the
3 taxpayer's waiver, the Secretary may propose an assessment at any time within the time
4 extended by the waiver."

5 **PART IV. INDUSTRIAL DEVELOPMENT FUND CHANGES**

6 Section 17. G.S. 143B-437.01(a) reads as rewritten:

7 "(a) Creation and Purpose of Fund. – There is created in the Department of
8 Commerce the Industrial Development Fund to provide funds to assist the local
9 government units of the most economically distressed counties in the State in creating
10 jobs in certain industries. The Department of Commerce shall adopt rules providing for
11 the administration of the program. Those rules shall include the following provisions,
12 which shall apply to each grant from the fund:

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

24 (1a) The funds shall be used for projects located in economically
25 distressed counties except that the Secretary of Commerce may use
26 up to one hundred thousand dollars (\$100,000) to provide
27 emergency economic development assistance in any county that is
28 documented to be experiencing a major economic dislocation.

29 (2) The funds shall be used by the city and county governments for
30 projects that will directly result in the creation of new jobs. The
31 funds shall be expended at a maximum rate of five thousand dollars
32 (\$5,000) per new job created up to a maximum of five hundred
33 thousand dollars (\$500,000) per project.

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

36 (4) The Department may authorize a local government that receives
37 funds under this section to use up to two percent (2%) of the funds,
38 if necessary, to verify that the funds are used only in accordance
39 with law and to otherwise administer the grant or loan.

40 (5) No project shall be funded unless the Secretary of Commerce finds
41 that the proposed project will not have a materially adverse effect
42 on the environment. The Secretary of Commerce shall not make
43 this finding unless the Secretary has first received a certification

1 from the Department of Environment and Natural Resources that
2 the proposed project will not have a materially adverse effect on
3 the environment."

4 PART V. EFFECTIVE DATES

5 Section 18. NAICS Code and Customer Service Center Changes. – G.S. 105-
6 129.2(2)b., as enacted by Section 2 of this act, is effective retroactively as of January 1,
7 1999. G.S. 105-129.2(3a), as enacted by Section 2 of this act, becomes effective for
8 taxable years beginning on or after January 1, 2000. The remaining amendments to G.S.
9 105-129.2 made by Section 2 of this act are effective when this act becomes law. G.S.
10 105-129.4(a)(6), as enacted by Section 2 of this act, becomes effective for taxable years
11 beginning on or after January 1, 2000.

12 Section 19. Small County Enhancements. – G.S. 105-129.3(e), as enacted by
13 Section 2 of this act, becomes effective for taxable years beginning on or after January 1,
14 2000.

15 Section 20. Development Zone Definitions. – The amendments to G.S. 105-
16 129.3A made by Section 2 of this act become effective July 1, 1999, and apply to
17 applications filed on or after that date. Notwithstanding the provisions of G.S. 105-
18 129.3A(b), a development zone designation made in 1998 or 1999 is effective until
19 January 1, 2001.

20 Section 21. Quality Jobs Assurance. – G.S. 105-129.4(b2), (b3), and (b4), as
21 enacted by Section 2 of this act, become effective for taxable years beginning on or after
22 January 1, 2000.

23 Section 22. All Credits Against Gross Premiums Tax. – The amendment to
24 G.S. 105-129.5(a) made by Section 2 of this act is effective for taxable years beginning
25 on or after January 1, 1998.

26 Section 23. Application Fees and Information. – The amendments to G.S. 105-
27 129.6(a) and (a1) made by Section 2 of this act become effective July 1, 1999.

28 Section 24. Development Zone Projects Credit. – G.S. 105-129.13, as enacted
29 by Section 2 of this act, is effective for taxable years beginning on or after January 1,
30 2000.

31 Section 25. Sales Tax Technical Change. – Section 3 of this act is effective
32 when it becomes law.

33 Section 26. Sales Tax Preference for Tiers One and Two Equipment. – G.S.
34 105-164.4A(12), as enacted by Section 4 of this act, becomes effective January 1, 2000,
35 and applies to sales made on or after that date.

36 Section 27. Temporary Sales Tax Refund for Nonprofit Insurance Companies.
37 – Section 5 of this act becomes effective January 1, 2000, and applies to taxes paid on or
38 after that date. Section 5 of this act expires January 1, 2005.

39 Section 28. Sales Tax Preferences for Interstate Air Carriers. – Sections 6
40 through 8 of this act become effective May 1, 1999, and apply to sales made on or after
41 that date.

42 Section 29. Affordable Housing Credit. – Part III of this act is effective for
43 taxable years beginning on or after January 1, 2000.

- 1 Section 30. Industrial Development Fund Changes. – Part IV of this act
2 becomes effective July 1, 1999.
3 Section 31. Remainder. – The remainder of this act is effective when it
4 becomes law.