

1 "(a1) Fee. – When filing an application for certification under this section, the
2 taxpayer must pay the Department of Commerce a fee of five hundred dollars (\$500.00)
3 for each credit the taxpayer intends to claim with respect to a location that is in an
4 enterprise tier three, four, or five area, subject to a maximum fee of one thousand five
5 hundred dollars (\$1,500) per taxpayer per taxable year. This fee does not apply to any
6 credit the taxpayer intends to claim with respect to a location that is in a development
7 zone as defined in G.S. 105-129.3A. If the taxpayer applies for certification for a credit
8 that relates to locations in more than one enterprise tier area, the fee is based on the
9 highest-numbered enterprise tier area.

10 The Secretary of Commerce shall retain one-fourth of the proceeds of the fee imposed
11 in this section for the costs of administering this section. The Secretary of Commerce
12 shall credit the remaining proceeds of the fee imposed in this section to the Department
13 of Revenue for the costs of administering and auditing the credits allowed in this Article.
14 The proceeds of the fee are receipts of the Department to which they are credited."

15 Section 1.(b) G.S. 105-129.13(e) reads as rewritten:

16 "(e) Application. – To be eligible for the tax credit provided in this section, in addition
17 to the application required under G.S. 105-129.6, the taxpayer must file an application for
18 the credit with the Secretary of Revenue on or before April 15 of the year following the
19 calendar year in which the contribution was made. The Secretary may grant extensions of
20 this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except
21 that the application may not be filed after September 15 of the year following the
22 calendar year in which the contribution was made. An application is effective for the year
23 in which it is timely filed. The application must be on a form prescribed by the Secretary
24 and must include any supporting documentation that the Secretary may require. If a
25 contribution for which a credit is applied for was of property rather than cash, the
26 taxpayer must include with the application a certified appraisal of the value of the
27 property contributed. There is no fee for an application under this section."

28 29 PART II. EXTEND CREDIT CARRYFORWARDS

30 Section 2. G.S. 105-129.5 reads as rewritten:

31 "**§ 105-129.5. (Repealed effective January 1, 2006) Tax election; ~~eap.~~cap;**
32 **carryforwards.**

33 (a) Tax Election. – The credits provided in this Article are allowed against the
34 franchise tax levied in Article 3 of this Chapter, ~~and~~ the income taxes levied in Article 4
35 of this Chapter, and the gross premiums tax levied in Article 8B of this Chapter. The
36 taxpayer may divide the technology commercialization credit allowed in G.S. 105-
37 129.9A between the taxes against which it is allowed. The taxpayer shall elect the
38 percentage of the credit that will be taken against each tax when filing the return on
39 which the credit is first taken. This election is binding. The percentage of the credit
40 elected to be taken against each tax may be carried forward only against the same tax.

41 The taxpayer must take any other credit allowed in this Article against only one of the
42 taxes against which it is allowed. The taxpayer shall elect the tax against which a credit
43 will be claimed when filing the return on which the first installment of the credit is

1 claimed. This election is binding. Any carryforwards of the credit must be claimed
2 against the same tax.

3 (b) Cap. – The credits allowed under this Article may not exceed fifty percent
4 (50%) of the tax against which they are claimed for the taxable year, reduced by the sum
5 of all other credits allowed against that tax, except tax payments made by or on behalf of
6 the taxpayer. This limitation applies to the cumulative amount of credit, including
7 carryforwards, claimed by the taxpayer under this Article against each tax for the taxable
8 year.

9 (c) Carryforward. – Any unused portion of a credit with respect to a large
10 investment or with respect to the technology commercialization credit allowed in G.S.
11 105-129.9A may be carried forward for the succeeding 20 years. Any unused portion of a
12 credit may be carried forward for the succeeding 10 years if the Secretary of Commerce
13 certifies when an application for the credit is first made that the taxpayer will purchase or
14 lease, and place in service in connection with the eligible business within a two-year
15 period, at least fifty million dollars (\$50,000,000) worth of one or more of the following:
16 real property, machinery and equipment, or central office or aircraft facility property. If
17 the taxpayer fails to make the level of investment certified within this two-year period,
18 the taxpayer forfeits this enhanced carryforward period. Any unused portion of any other
19 credit may be carried forward for the succeeding five years."
20

21 PART III. REQUIRE WAGE STANDARD FOR GRANTS

22 Section 3.(a) Section 16.2 of S.L. 1999-237 reads as rewritten:
23 "INDUSTRIAL RECRUITMENT COMPETITIVE FUND

24 Section 16.2.(a) Funds appropriated in this act to the Department of Commerce
25 for the Industrial Recruitment Competitive Fund shall be used to continue the Fund. The
26 purpose of the Fund is to provide financial assistance to those businesses or industries
27 deemed by the Governor to be vital to a healthy and growing State economy and that are
28 making significant efforts to establish or expand in North Carolina. Monies allocated
29 from the Fund shall be used for the following purposes:

- 30 (1) Installation or purchase of equipment;
- 31 (2) Structural repairs, improvements, or renovations of existing buildings to
32 be used for expansion; and
- 33 (3) Construction of or improvements to new or existing water, sewer, gas or
34 electric utility distribution lines, or equipment for existing buildings.

35 Monies may also be used for construction of or improvements to new or existing
36 water, sewer, gas or electric utility distribution lines, or equipment to serve new or
37 proposed industrial buildings used for manufacturing and industrial operations. The
38 Governor shall adopt guidelines and procedures for the commitment of monies from the
39 Fund. Monies from the Fund may be allocated only to projects that meet the wage
40 standard set out in G.S. 105-129.4(b).

41 Section 16.2.(b) The Department of Commerce shall report on or before October 1,
42 1999, and quarterly thereafter to the Joint Legislative Commission on Governmental

1 Operations and to the Fiscal Research Division on the commitment, allocation, and use of
2 funds allocated from the Industrial Recruitment Competitive Fund."

3 Section 3.(b) G.S. 143B-437.01(a) is amended by adding a new subdivision to
4 read:

5 "(6) The funds shall not be used for any nonmanufacturing project that does
6 not meet the wage standard set out in G.S. 105-129.4(b)."

7 8 PART IV. PROHIBIT FUNDING FOR DEFAULTING GRANTEES

9 Section 4. Part 1 of Article 10 of Chapter 143B of the General Statutes is
10 amended by adding a new section to read:

11 **"§ 143B-431.2. Department of Commerce - limitation on grants and loans.**

12 The Department of Commerce may not make a loan nor award a grant to any
13 individual, organization, or governmental unit if that individual, organization, or
14 governmental unit is currently in default on any loan made by the Department of
15 Commerce."

16 17 PART V. AIRCRAFT MAINTENANCE FACILITY CREDIT

18 Section 5.(a) G.S. 105-129.2(2) reads as rewritten:

19 ~~"(2) Central administrative office or aircraft facility. — Either Any of the~~
20 following:

- 21 a. A corporate, subsidiary, or regional managing office, as defined
22 by NAICS.
- 23 b. An auxiliary subdivision of an interstate passenger air carrier
24 engaged primarily in centralized training for the carrier at its hub.
25 ~~For the purpose of this definition, the terms 'interstate passenger air~~
26 ~~carrier' and 'hub' have the meanings provided in G.S. 105-164.3.~~
- 27 c. An auxiliary subdivision of an interstate passenger air carrier
28 engaged primarily in aircraft maintenance and repair services or
29 aircraft rebuilding as defined by NAICS."

30 Section 5.(b) G.S. 105-129.2 is amended by adding two new subdivisions to read:

31 "(8) Hub. — Defined in G.S. 105-164.3.

32 (8a) Interstate passenger air carrier. — Defined in G.S. 105-164.3."

33 Section 5.(c) G.S. 105-129.4(a) through (b1), as amended by Section 11 of this
34 act, read as rewritten:

35 **"§ 105-129.4. (Repealed effective January 1, 2006) Eligibility; forfeiture.**

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

- 1 (1) Air courier services.
- 2 (2) Central ~~administrative-office~~ or aircraft facility that creates at least 40
- 3 new jobs.
- 4 (2a) Customer service center located in an enterprise tier one or two area.
- 5 (3) Data processing.
- 6 (3a) Electronic mail order house that creates at least 250 new jobs and is
- 7 located in an enterprise tier one or two area.
- 8 (4) Manufacturing.
- 9 (5) Warehousing.
- 10 (6) Wholesale trade.

11 (a1) New Jobs Defined. – A central ~~administrative-office~~ or aircraft facility creates at
12 least 40 new jobs if the taxpayer hires at least 40 additional full-time employees to fill
13 new positions at the office either in the year the taxpayer first uses the property as a
14 central ~~administrative-office~~ or aircraft facility or in the preceding 24 months while using
15 temporary space for the central ~~administrative-office~~ or aircraft facility functions during
16 completion of the ~~administrative-central~~ office or aircraft facility property. An electronic
17 mail order house creates at least 250 new jobs if the taxpayer hires at least 250 additional
18 full-time employees to fill new positions at the house in the two-year period ending on
19 the last day of the taxable year the taxpayer first claims a credit under this Article. Jobs
20 transferred from one area in the State to another area in the State are not considered new
21 jobs for purposes of this subsection.

22 (a2) Expiration. – If, during the period that installments of a credit under this
23 Article accrue, the taxpayer is no longer engaged in one of the types of business
24 described in subsection (a) of this section, the credit expires and the taxpayer may not
25 take any remaining installments of the credit. The taxpayer may, however, take the
26 portion of an installment that accrued in a previous year and was carried forward to the
27 extent permitted under G.S. 105-129.5.

28 (b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs or the
29 credit for worker training if the jobs for which the credit is claimed meet the wage
30 standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the
31 credit for investing in machinery and equipment, the credit for research and development,
32 or the credit for investing in real property for a central ~~administrative-office~~ or aircraft
33 facility if the jobs at the location with respect to which the credit is claimed meet the
34 wage standard at the time the taxpayer applies for the credit. Jobs meet the wage standard
35 if they pay an average weekly wage that is at least equal to the applicable percentage
36 times the applicable average weekly wage for the county in which the jobs will be
37 located, as computed by the Secretary of Commerce from data compiled by the
38 Employment Security Commission for the most recent period for which data are
39 available. The applicable percentage for jobs located in an enterprise tier one area is one
40 hundred percent (100%). The applicable percentage for all other jobs is one hundred ten
41 percent (110%). The applicable average weekly wage is the lowest of the following: (i)
42 the average wage for all insured private employers in the county, (ii) the average wage
43 for all insured private employers in the State, and (iii) the average wage for all insured

1 private employers in the county multiplied by the county income/wage adjustment factor.
2 The county income/wage adjustment factor is the county income/wage ratio divided by
3 the State income/wage ratio. The county income/wage ratio is average per capita income
4 in the county divided by the annualized average wage for all insured private employers in
5 the county. The State income/wage ratio is the average per capita income in the State
6 divided by the annualized average wage for all insured private employers in the State.

7 (b1) Large Investment. – A taxpayer who is otherwise eligible for a tax credit under
8 this Article becomes eligible for the large investment enhancements provided for credits
9 under this Article if the Secretary of Commerce certifies that the taxpayer will purchase
10 or lease, and place in service in connection with the eligible business within a two-year
11 period, at least one hundred fifty million dollars (\$150,000,000) worth of one or more of
12 the following: real property, machinery and equipment, or central ~~administrative-office or~~
13 aircraft facility property. If the taxpayer fails to make the level of investment certified
14 within this two-year period, the taxpayer forfeits the large investment enhancements as
15 provided in subsection (d) of this section.

16"

17 Section 5.(d) G.S. 105-129.7(b) reads as rewritten:

18 "(b) Each taxpayer must provide with the tax return qualifying
19 information for each credit claimed under this Article for the first taxable year the credit
20 is claimed and for every year in which a subsequent installment or a carryforward of that
21 credit is claimed. The qualifying information must be in the form prescribed by the
22 Secretary, must cover each taxable year beginning with the first taxable year the credit is
23 claimed, and must be signed and affirmed by the individual who signs the taxpayer's tax
24 return. The information required by this subsection is information demonstrating that the
25 taxpayer has met the conditions for qualifying for an initial credit and any installments
26 and carryforwards, and includes the following:

- 27 (1) The physical location of the jobs and investment with respect to which
28 the credit is claimed, including the enterprise tier designation of the
29 location and whether it is in a development zone. In addition, for each
30 individual who fills a job at a location with respect to which a credit is
31 claimed, the place where the individual resided before taking the job,
32 including any enterprise tier or development zone designation of that
33 place.
- 34 (2) The type of business with respect to which the credit is claimed, as
35 required by G.S. 105-129.4(a), and wage information described in G.S.
36 105-129.4(b).
- 37 (3) If the credit is claimed with respect to a large investment certified under
38 G.S. 105-129.4(b1), 105-129.4(b1) or is a credit with a carryforward
39 period of 10 years under G.S. 105-129.5(c), the amount of the
40 investment requirement under ~~that subsection~~ those subsections that has
41 been met to date.
- 42 (4) Qualifying information required for the credit for creating jobs allowed
43 under G.S. 105-129.8, the credit for investing in machinery and

1 equipment allowed under G.S. 105-129.9, the credit for worker training
2 allowed under G.S. 105-129.11, the credit for investing in central
3 ~~administrative-office~~ or aircraft facility property allowed in G.S. 105-
4 129.12, and any other credits allowed under this Article."

5 Section 5.(e) G.S. 105-129.12 reads as rewritten:

6 **"§ 105-129.12. (Repealed effective January 1, 2006) Credit for investing in central**
7 **~~administrative-office~~ or aircraft facility property.**

8 (a) Credit. – If a taxpayer that has purchased or leased real property in this State
9 begins to use the property as a central ~~administrative-office~~ or aircraft facility during the
10 taxable year, the taxpayer is allowed a credit equal to seven percent (7%) of the eligible
11 investment amount. The eligible investment amount is the lesser of (i) the cost of the
12 property and (ii) the amount by which the cost of all of the property the taxpayer is using
13 in this State as central ~~administrative-offices-office~~ or aircraft facilities on the last day of
14 the taxable year exceeds the cost of all of the property the taxpayer was using in this State
15 as central ~~administrative-offices-office~~ or aircraft facilities on the last day of the base year.
16 The base year is that year, of the three immediately preceding taxable years, in which the
17 taxpayer was using the most property in this State as central ~~administrative-offices-office~~
18 or aircraft facilities. In the case of property that is leased, the cost of the property is not
19 determined as provided in G.S. 105-129.2 but is considered to be the taxpayer's lease
20 payments over a seven-year period, plus any expenditures made by the taxpayer to
21 improve the property before it is used as the taxpayer's central ~~administrative-office~~ or
22 aircraft facility if the expenditures are not reimbursed or credited by the lessor. The
23 maximum credit allowed a taxpayer under this section for property used as a central
24 ~~administrative-office~~ or aircraft facility is five hundred thousand dollars (\$500,000). The
25 entire credit may not be taken for the taxable year in which the property is first used as a
26 central ~~administrative-office~~ or aircraft facility but shall be taken in equal installments over
27 the seven years following the taxable year in which the property is first used as a central
28 ~~administrative-office-office~~ or aircraft facility. The basis in any real property for which a
29 credit is allowed under this section shall be reduced by the amount of credit allowable.

30 (b) Mixed Use Property. – If the taxpayer uses only part of the property as the
31 taxpayer's central ~~administrative-office-office~~ or aircraft facility, the amount of the credit
32 allowed under this section is reduced by multiplying it by a fraction the numerator of
33 which is the square footage of the property used as the taxpayer's central ~~administrative~~
34 office or aircraft facility and the denominator of which is the total square footage of the
35 property.

36 (c) Expiration. – If, in one of the seven years in which the installment of a credit
37 accrues, the property with respect to which the credit was claimed is no longer used as a
38 central ~~administrative-office-office~~ or aircraft facility, the credit expires and the taxpayer
39 may not take any remaining installment of the credit. If, in one of the seven years in
40 which the installment of a credit accrues, part of the property with respect to which the
41 credit was claimed is no longer used as a central ~~administrative-office-office~~ or aircraft
42 facility, the remaining installments of the credit shall be reduced by multiplying it by the
43 fraction described in subsection (b) of this section. If, in one of the seven years in which

1 the installment of a credit accrues, the total number of employees the taxpayer employs at
2 all of its central ~~administrative offices~~ office or aircraft facilities in this State drops by 40
3 or more, the credit expires and the taxpayer may not take any remaining installment of
4 the credit.

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

9 PART VI. EMPLOYEE BUYOUT INCENTIVE

10 Section 6. G.S. 105-129.4(e) reads as rewritten:

11 "(e) Change in Ownership of Business. – The sale, merger, consolidation, conversion,
12 acquisition, or bankruptcy of a business, or any transaction by which an existing business
13 reformulates itself as another business, does not create new eligibility in a succeeding
14 business with respect to credits for which the predecessor was not eligible under this
15 Article. A successor business may, however, take any installment of or carried-over
16 portion of a credit that its predecessor could have taken if it had a tax liability. The
17 acquisition of a business is a new investment that creates new eligibility in the acquiring
18 taxpayer under this Article if any of the following conditions are met:

- 19 (1) The business closed before it was acquired.
- 20 (2) The business was required to file a notice of plant closing or mass layoff
21 under the federal Worker Adjustment and Retraining Notification Act,
22 29 U.S.C. § 2102, before it was acquired.
- 23 (3) The business was acquired by its employees ~~through~~ directly or
24 indirectly through an acquisition company under an employee stock
25 option transaction or another similar mechanism. For the purpose of
26 this subdivision, "acquired" means that as part of the initial purchase of a
27 business by the employees, the purchase included an agreement for the
28 employees through the employee stock option transaction or another
29 similar mechanism to obtain one of the following:
 - 30 a. Ownership of more than fifty percent (50%) of the business.
 - 31 b. Ownership of not less than forty percent (40%) of the business
32 within seven years if the business has tangible assets with a net
33 book value in excess of one hundred million dollars
34 (\$100,000,000) and has the majority of its operations located in
35 an enterprise tier one, two, or three area."

37 PART VII. LOW-INCOME HOUSING CREDIT CHANGES

38 Section 7. G.S. 105-129.16B(a), (c), and (d) read as rewritten:

39 "(a) Credit. – A taxpayer that is allowed for the taxable year a federal income tax
40 credit for low-income housing under section 42 of the Code with respect to a qualified
41 North Carolina low-income building, is allowed a credit under this Article equal to a
42 percentage of the total federal credit allowed with respect to that building. For the
43 purposes of this section, the total federal credit allowed is the total allowed during the 10-

1 year federal credit period plus the disallowed first-year credit allowed in the 11th year.
2 For the purposes of this section, the total federal credit is calculated based on qualified
3 basis as of the end of the first year of the credit period and is not recalculated to reflect
4 subsequent increases in qualified basis. For buildings that meet condition (c)(1) or (c)(1a)
5 of this section, the credit percentage is seventy-five percent (75%). For other buildings,
6 the credit percentage is twenty-five percent (25%).

7 ...

8 (c) Definitions. – The definitions in section 42 of the Code apply in this section. In
9 addition, as used in this section the term "qualified North Carolina low-income
10 building" means a qualified low-income building that was allocated a federal credit under
11 section 42(h)(1) of the Code, was not allowed a federal credit under section 42(h)(4) of
12 the Code, and meets any of the following conditions:

13 (1) It is located in an area that, at the time the federal credit is allocated to
14 the building, is a tier one or two enterprise area, as defined in G.S. 105-
15 129.3.

16 (1a) It is located in a county that, at the time the federal credit is allocated to
17 the building, has been designated as having sustained severe or
18 moderate damage from a hurricane or a hurricane-related disaster,
19 according to the Federal Emergency Management Agency impact map,
20 revised on September 25, 1999. Those counties are Bertie, Beaufort,
21 Bladen, Brunswick, Carteret, Columbus, Craven, Dare, Duplin,
22 Edgecombe, Greene, Halifax, Hertford, Jones, Lenoir, Martin, Nash,
23 New Hanover, Northampton, Onslow, Pasquotank, Pender, Pitt,
24 Washington, Wayne, and Wilson Counties.

25 (2) It is located in an area that, at the time the federal credit is allocated to
26 the building, is a tier three or four enterprise area, and forty percent
27 (40%) of its residential units are both rent-restricted and occupied by
28 individuals whose income is fifty percent (50%) or less of area median
29 gross income as defined in the Code.

30 (3) It is located in an area that, at the time the federal credit is allocated to
31 the building, is a tier five enterprise area, and forty percent (40%) of its
32 residential units are both rent-restricted and occupied by individuals
33 whose income is thirty-five percent (35%) or less of area median gross
34 income as defined in the Code.

35 (d) Expiration. – If, in one of the five years in which an installment of the credit
36 under this section accrues, the taxpayer is no longer eligible for the corresponding federal
37 credit with respect to the same qualified North Carolina low-income building, then the
38 credit under this section expires and the taxpayer may not take any remaining installment
39 of the credit. If, in one of the five years in which an installment of the credit under this
40 section accrues, the building no longer qualifies as a low-income building under
41 subdivision (2) or (3) of subsection (c) of this section because less than forty percent
42 (40%) of its residential units are both rent-restricted and occupied by individuals who
43 meet the income requirements, then the credit under this section expires and the taxpayer

1 may not take any remaining installments of the credit. The taxpayer may, however, take
2 the portion of an installment that accrued in a previous year and was carried forward to
3 the extent permitted under G.S. 105-129.17."
4

5 PART VIII. MODIFY CREDIT AND EXPIRATION PROVISIONS

6 Section 8.(a) G.S. 105-129.8(a) reads as rewritten:

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

15 Area Enterprise Tier	Amount of Credit
16 Tier One	\$12,500
17 Tier Two	4,000
18 Tier Three	3,000
19 Tier Four	1,000
20 Tier Five	500

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

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

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

40 Section 8.(b) G.S. 105-129.9 reads as rewritten:

41 "**§ 105-129.9. Credit for investing in machinery and equipment.**

42 (a) General Credit. – If a taxpayer that has purchased or leased eligible machinery
43 and equipment places them in service in this State during the taxable year, the taxpayer is

1 allowed a credit equal to seven percent (7%) of the excess of the eligible investment
2 amount over the applicable threshold. Machinery and equipment are eligible if they are
3 capitalized by the taxpayer for tax purposes under the Code and not leased to another
4 party. In addition, in the case of a large investment, machinery and equipment that are
5 not capitalized by the taxpayer are eligible if the taxpayer leases them from another party.
6 The credit may not be taken for the taxable year in which the machinery and equipment
7 are placed in service but shall be taken in equal installments over the seven years
8 following the taxable year in which they are placed in service.

9 (a1) Technology Commercialization Credit. – If a taxpayer is eligible for the credit
10 allowed in this section with respect to eligible machinery and equipment and qualifies for
11 one of the credits allowed in G.S. 105-129.9A with respect to the same machinery and
12 equipment, the taxpayer may choose to take one of those credits instead of the credit
13 allowed in this section. A taxpayer may take the credit allowed in this section or one of
14 the credits allowed in G.S. 105-129.9A during a taxable year with respect to eligible
15 machinery and equipment, but may not take more than one of these credits with respect to
16 the same machinery and equipment.

17 (b) Eligible Investment Amount. – The eligible investment amount is the lesser of
18 (i) the cost of the eligible machinery and equipment and (ii) the amount by which the cost
19 of all of the taxpayer's eligible machinery and equipment that are in service in this State
20 on the last day of the taxable year exceeds the cost of all of the taxpayer's eligible
21 machinery and equipment that were in service in this State on the last day of the base
22 year. The base year is that year, of the three immediately preceding taxable years, in
23 which the taxpayer had the most eligible machinery and equipment in service in this
24 State. A taxpayer that claims a credit under this section must include with the application
25 for certification required under G.S. 105-129.6(a) specific documentation supporting the
26 taxpayer's calculation of the eligible investment amount under this subsection.

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

41 (d) Expiration. – If, in one of the seven years in which the installment of a credit
42 accrues, the machinery and equipment with respect to which the credit was claimed are
43 disposed of, taken out of service, or moved out of State, the credit expires and the

1 taxpayer may not take any remaining installment of the ~~credit~~ credit for that machinery
2 and equipment unless the cost of that machinery and equipment is offset in the same
3 taxable year by the taxpayer's new investment in eligible machinery and equipment
4 placed in service in the same enterprise tier, as provided in this subsection. If, during the
5 taxable year the taxpayer disposed of the machinery and equipment for which
6 installments remain, there has been a net reduction in the cost of all the taxpayer's eligible
7 machinery and equipment that are in service in the same enterprise tier as the machinery
8 and equipment that were disposed of, and the amount of this reduction is greater than
9 twenty percent (20%) of the cost of the machinery and equipment that were disposed of,
10 then the taxpayer forfeits the remaining installments of the credit for the machinery and
11 equipment that were disposed of. If the amount of the net reduction is equal to twenty
12 percent (20%) or less of the cost of the machinery and equipment that were disposed of,
13 or if there is no net reduction, then the taxpayer does not forfeit the remaining
14 installments of the expired credit. In determining the amount of any net reduction during
15 the taxable year, the cost of machinery and equipment the taxpayer placed in service
16 during the taxable year and for which the taxpayer claims a credit under Article 3B of this
17 Chapter may not be included in the cost of all the taxpayer's eligible machinery and
18 equipment that are in service. If in a single taxable year machinery and equipment with
19 respect to two or more credits in the same tier are disposed of, the net reduction in the
20 cost of all the taxpayer's eligible machinery and equipment that are in service in the same
21 tier is compared to the total cost of all the machinery and equipment for which credits
22 expired in order to determine whether the remaining installments of the credits are
23 forfeited.

24 The ~~taxpayer may, however, take~~ expiration of a credit does not prevent the taxpayer
25 from taking the portion of an installment that accrued in a previous year and was carried
26 forward to the extent permitted under G.S. 105-129.5.

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

33 (e) Planned Expansion. – A taxpayer that signs a letter of commitment with the
34 Department of Commerce to place specific eligible machinery and equipment in service
35 in an area within two years after the date the letter is signed may, in the year the eligible
36 machinery and equipment are placed in service in that area, calculate the credit for which
37 the taxpayer qualifies based on the area's enterprise tier and development zone
38 designation for the year the letter was signed. All other conditions apply to the credit, but
39 if the area has been redesignated to a higher-numbered enterprise tier or has lost its
40 development zone designation after the year the letter of commitment was signed, the
41 credit is allowed based on the area's enterprise tier and development zone designation for
42 the year the letter was signed. If the taxpayer does not place part or all of the specified
43 eligible machinery and equipment in service within the two-year period, the taxpayer

1 does not qualify for the benefit of this subsection with respect to the machinery and
2 equipment not placed in service within the two-year period. However, if the taxpayer
3 qualifies for a credit in the year the eligible machinery and equipment are placed in
4 service, the taxpayer may take the credit for that year as if no letter of commitment had
5 been signed pursuant to this subsection."

6 Section 8.(c) G.S. 105-129.4 is amended by adding a new subsection to read:

7 "(a2) Expiration. – If, during the period that installments of a credit under this
8 Article accrue, the taxpayer is no longer engaged in one of the types of business
9 described in subsection (a) of this section, the credit expires and the taxpayer may not
10 take any remaining installments of the credit. The taxpayer may, however, take the
11 portion of an installment that accrued in a previous year and was carried forward to the
12 extent permitted under G.S. 105-129.5."

13 14 PART IX. TECHNICAL CORRECTION

15 Section 9. G.S. 105-164.14(i) reads as rewritten:

16 "(i) **(Effective for taxes paid on or after May 1, 1999 until January 1, 2008)**
17 Nonprofit Insurance Companies. – Eligible nonprofit insurance companies are allowed an
18 annual refund of sales and use taxes paid under this Article as provided in this subsection.

19 (1) **(Effective until January 1, 2004)** Refunds. – An eligible nonprofit
20 insurance company is allowed an annual refund of sales and use taxes
21 paid by it under this Article on building materials, building supplies,
22 fixtures, and equipment that become a part of its real property, and on
23 computer systems hardware and software it capitalizes for tax purposes
24 under the Code. Liability incurred indirectly by the company for sales
25 and use taxes on these items is considered tax paid by the company. A
26 request for a refund must be in writing and must include any
27 information and documentation required by the Secretary. A request for
28 a refund is due within six months after the end of the insurance
29 company's fiscal year. Refunds applied for after the due date are barred.

30 (1) **(Effective January 1, 2004 until January 1, 2008)** Refunds. – An
31 eligible nonprofit insurance company is allowed an annual refund of
32 sales and use taxes paid by it under this Article on building materials,
33 building supplies, fixtures, and equipment that become a part of its real
34 property. Liability incurred indirectly by the company for sales and use
35 taxes on these items is considered tax paid by the company. A request
36 for a refund must be in writing and must include any information and
37 documentation required by the Secretary. A request for a refund is due
38 within six months after the end of the insurance company's fiscal year.
39 Refunds applied for after the due date are barred.

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

42 a. It is a nonprofit corporation.

1 b. It is operated for the exclusive purpose of providing insurance
2 and annuity contracts to or for the benefit of (i) organizations
3 exempt from federal income tax under section 501(c)(3) of the
4 ~~Code~~, Code and their employees or (ii) public institutions and
5 their employees.

6 c. The Secretary of Commerce has certified that the insurance
7 company will invest at least twenty million dollars (\$20,000,000)
8 in constructing a facility in this State for the conduct of its
9 operations.

10 (3) Forfeiture. – If an eligible insurance company does not make the
11 required minimum investment within five years after its first refund
12 under this subsection, it loses its eligibility and forfeits all refunds
13 already received under this subsection. Upon forfeiture, the company is
14 liable for tax under this Article equal to the amount of all past taxes
15 refunded under this subsection, plus interest at the rate established in
16 G.S. 105-241.1(i), computed from the date each refund was issued. The
17 tax and interest are due 30 days after the date of the forfeiture. A
18 company that fails to pay the tax and interest is subject to the penalties
19 provided in G.S. 105-236."
20

21 PART X. EFFECTIVE DATES

22 Section 10.(a) Application Fee Exemptions. – Section 1 of this act becomes
23 effective January 1, 2001, and applies to applications made on or after that date.

24 Section 10.(b) Extend Credit Carryforwards. – Section 2 of this act is effective
25 for taxable years beginning on or after January 1, 2000.

26 Section 10.(c) Require Wage Standard for Grants and Prohibit Funding for
27 Defaulting Grantees. – Sections 3 and 4 of this act become effective July 1, 2000, and
28 apply to funds appropriated, grants awarded, or loans made on or after that date.

29 Section 10.(d) Aircraft Maintenance Facility Credit. – Section 5 of this act is
30 effective for taxable years beginning on or after January 1, 2001.

31 Section 10.(e) Employee Buyout Incentive. – Section 6 of this act is effective
32 May 1, 1999, and applies to acquisitions made on or after that date.

33 Section 10.(f) Low-Income Housing Credit Changes. – G.S. 105-129.16B(d),
34 as amended by Section 7 of this act, is effective for taxable years beginning on or after
35 January 1, 2000. The remainder of Section 7 is effective for taxable years beginning on
36 or after January 1, 2001, applies to buildings to which federal credits are allocated on or
37 after January 1, 2001, and expires January 1, 2005.

38 Section 10.(g) Modify Credit and Expiration Provisions. – Section 11 of this
39 act is effective for taxable years beginning on or after January 1, 2000.

40 Section 10.(h) Technical Correction. – Section 12 of this act becomes effective
41 May 1, 1999, and applies to taxes paid on or after that date. Section 12 is repealed for
42 taxes paid on or after January 1, 2008.

1 Section 10.(i) Remainder. – The remainder of this act is effective when it
2 becomes law.