

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1115

Finance Committee Substitute Adopted 5/20/99

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Short Title: William S. Lee Act/1999.

(Public)

Sponsors:

Referred to:

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR WIDELY SHARED PROSPERITY BY AMENDING
3 THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT, BY
4 PROVIDING ADDITIONAL TAX INCENTIVES FOR VARIOUS BUSINESSES,
5 AND BY MAKING RELATED CHANGES.

6 The General Assembly of North Carolina enacts:

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13 **PART I. BILL LEE ACT CHANGES**

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

1 "(3) Quality jobs and business expansion tax credits. – Sections 3.5, 3.6, and
2 3.8 through 3.10 of Part III of this act become effective August 1, 1996.
3 G.S. 105-129.11, as enacted by Part III of this act, becomes effective for
4 taxable years beginning on or after January 1, 1997, and applies to
5 training expenditures made on or after July 1, 1997. The remainder of
6 Part III of this act is effective for taxable years beginning on or after
7 January 1, 1996, and applies to jobs created on or after August 1, 1996,
8 and property placed in service on or after August 1, 1996. Article 3A of
9 Chapter 105 of the General Statutes is repealed effective for
10 applications for credits filed under G.S. 105-129.6 on or after January 1,
11 2002.–2006. Article 3B of Chapter 105 of the General Statutes is
12 repealed effective for business property placed in service on or after
13 January 1, 2002.–2006."

14 Section 2. Article 3A of Chapter 105 of the General Statutes reads as
15 rewritten:

16 "**ARTICLE 3A.**

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

18 "**§ 105-129.2. Definitions.**

19 The following definitions apply in this Article:

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

- 1 subdivision is primarily engaged in providing support services by
2 telephone if at least sixty percent (60%) of its calls are incoming.
3 (4) Data processing. – Any of the following industries, as defined by
4 NAICS: Defined in the North American Industry Classification
5 System adopted by the United States Office of Management and
6 Budget.
7 a. Computer systems design and related services.
8 b. Software publishers.
9 c. Software reproducing.
10 d. Data processing services.
11 e. On-line information services.
12 (5) Development zone. – An area designated as a development zone
13 pursuant to G.S. 105-129.3A.
14 (5a) Electronic mail order house. – An electronic shopping and mail
15 order house, as defined by NAICS.
16 (6) Enterprise tier. – The classification assigned to an area pursuant to
17 G.S. 105-129.3.
18 (7) Full-time job. – A position that requires at least 1,600 hours of work
19 per year and is intended to be held by one employee during the entire
20 year. A full-time employee is an employee who holds a full-time job.
21 (8) Reserved.
22 (9) Large investment. – Defined in G.S. 105-129.4(b1).
23 (10) Machinery and equipment. – Engines, machinery, equipment, tools,
24 and implements used or designed to be used in the business for
25 which the credit is claimed. The term does not include real property
26 as defined in G.S. 105-273 or rolling stock as defined in G.S. 105-
27 333.
28 (11) Manufacturing. —~~Defined Industries in manufacturing sectors 31~~
29 ~~through 33, as defined by NAICS, in the North American Industry~~
30 ~~Classification System adopted by the United States Office of Management~~
31 ~~and Budget. but not including quick printing or retail bakeries.~~
32 (11a) NAICS. – The North American Industry Classification System
33 adopted by the United States Office of Management and Budget.
34 (12) Purchase. – Defined in section 179 of the Code.
35 (13) ~~Warehousing and wholesale trade. — Defined Warehousing. –~~
36 ~~Industries in warehousing and storage subsector 493 as defined by~~
37 ~~NAICS. in the North American Industry Classification System~~
38 ~~adopted by the United States Office of Management and Budget.~~
39 (14) Wholesale trade. – Industries in wholesale trade sector 42 as defined
40 by NAICS.

41 **"§ 105-129.3. Enterprise tier designation.**

- 42 (a) Tiers Defined. – An enterprise tier one area is a county whose enterprise factor
43 is one of the 10 highest in the State. An enterprise tier two area is a county whose

1 enterprise factor is one of the next 15 highest in the State. An enterprise tier three area is
2 a county whose enterprise factor is one of the next 25 highest in the State. An enterprise
3 tier four area is a county whose enterprise factor is one of the next 25 highest in the State.
4 An enterprise tier five area is any area that is not in a lower-numbered enterprise tier.

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

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

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

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

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

18 (b1) Data. – In measuring rates of unemployment and per capita income, the
19 Secretary shall use the latest available data published by a State or federal agency
20 generally recognized as having expertise concerning the data. In measuring population
21 and population growth, the Secretary shall use the most recent estimates of population
22 certified by the State Planning Officer.

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

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

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

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

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

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

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

41 (1) Its population is less than 50,000.

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

4 (f) Exception for Small Counties. – A county that has a population of less than
5 25,000 and that would otherwise be designated an enterprise four or five area under this
6 section must be designated an enterprise tier three area.

7 "**§ 105-129.3A. Development zone designation.**

8 (a) Development Zone Defined. – A development zone is an area that meets one of
9 the following two descriptions:

10 (1) Is a county with a population of less than 10,000 that does not have a
11 city with a population greater than 5,000 and contains at least one
12 census tract with a poverty rate of more than sixteen percent (16%).

13 (2) Is an area comprised of one or more contiguous census tracts, census
14 block groups, or both in the most recent federal decennial census
15 that meets all of the following conditions:

16 (+) a. ~~Every~~ census tract and census block group in the zone is located in
17 whole or in part ~~in~~ within the primary corporate limits of a city with a
18 population of more than 5,000 according to the most recent annual
19 population estimates certified by the State Planning Officer.

20 (2) b. It has a population of 1,000 or more according to the most recent
21 annual population estimates certified by the State Planning Officer.

22 (3) c. More than ~~twenty~~ ~~sixteen~~ percent (~~20%~~) (~~16%~~) of its population is
23 below the poverty level according to the most recent federal decennial
24 census.

25 — d. Every census tract and census block group in the zone meets at least
26 one of the following conditions:

27 1. More than ten percent (10%) of its population is below the
28 poverty level according to the most recent federal
29 decennial census.

30 2. It is immediately adjacent to another census tract or
31 census block group that is in the same zone and has more
32 than sixteen percent (16%) of its population below the
33 poverty level according to the most recent federal
34 decennial census.

35 e. None of the census tracts or census block groups in the zone is
36 located in another development zone designated by the Secretary
37 of Commerce.

38 (b) Designation. – Upon request of a taxpayer or a local government, the Secretary
39 of Commerce shall designate whether an area is a development zone that meets the
40 conditions of subsection (a) of this section. If the applicant is a taxpayer, it must notify
41 each city in which part of the zone is located. A development zone designation is
42 effective for ~~48~~24 months following the designation.

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

7 **"§ 105-129.4. Eligibility; forfeiture.**

8 (a) Type of Business. – A taxpayer is eligible for a credit allowed by G.S. 105-
9 129.12 if the real property for which the credit is claimed is used for a central
10 administrative office that creates at least 40 new jobs. A taxpayer is eligible for the other
11 credits allowed by this Article if the taxpayer engages in one of the following types of
12 businesses and the jobs with respect to which a credit is claimed are created in that
13 business, the machinery and equipment with respect to which a credit is claimed are used
14 in that business, and the research and development for which a credit is claimed are
15 carried out as part of that business:

16 (1) Air courier services.

17 (2) Central administrative office that creates at least 40 new jobs.

18 (2a) Customer service center located in an enterprise tier one or two area.

19 (3) Data processing.

20 (3a) Electronic mail order house that creates at least 250 new jobs and is
21 located in an enterprise tier one or two area.

22 (4) Manufacturing.

23 (5) ~~Warehousing or wholesale trade.~~ Warehousing.

24 (6) Wholesale trade.

25 ~~(a1) Central Administrative Office.~~ New Jobs Defined. – A central administrative
26 office creates at least 40 new jobs if the taxpayer hires at least 40 additional full-time
27 employees to fill new positions at the office either in the year the taxpayer first uses the
28 property as a central administrative office or in the preceding 24 months while using
29 temporary space for the central administrative office functions during completion of the
30 administrative office property. An electronic mail order house creates at least 250 new
31 jobs if the taxpayer hires at least 250 additional full-time employees to fill new positions
32 at the house in the two-year period ending on the last day of the taxable year the taxpayer
33 first claims a credit under this Article. Jobs transferred from one area in the State to
34 another area in the State are not considered new jobs for purposes of this subsection.

35 (b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs or the
36 credit for worker training if the jobs for which the credit is claimed meet the wage
37 standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the
38 credit for investing in machinery and equipment, the credit for research and development,
39 or the credit for investing in real property for a central administrative office if the jobs at
40 the location with respect to which the credit is claimed meet the wage standard at the time
41 the taxpayer applies for the credit. Jobs meet the wage standard if they pay an average
42 weekly wage that is at least equal to the applicable percentage times the applicable
43 average weekly wage for the county in which the jobs will be located, as computed by the

1 Secretary of Commerce from data compiled by the Employment Security Commission
2 for the most recent period for which data are available. The applicable percentage for
3 jobs located in an enterprise tier one area is one hundred percent (100%). The applicable
4 percentage for all other jobs is one hundred ten percent (110%). The applicable average
5 weekly wage is the lowest of the following: (i) the average wage for all insured private
6 employers in the county, (ii) the average wage for all insured private employers in the
7 State, and (iii) the average wage for all insured private employers in the county
8 multiplied by the county income/wage adjustment factor. The county income/wage
9 adjustment factor is the county income/wage ratio divided by the State income/wage
10 ratio. The county income/wage ratio is average per capita income in the county divided
11 by the annualized average wage for all insured private employers in the county. The State
12 income/wage ratio is the average per capita income in the State divided by the annualized
13 average wage for all insured private employers in the State.

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

23 (b2) Health Insurance. – A taxpayer is eligible for a credit for creating jobs or for
24 worker training under this Article if the taxpayer provides health insurance for the
25 positions for which the credit is claimed at the time the taxpayer applies for the credit. A
26 taxpayer is eligible for the other credits under this Article if the taxpayer provides health
27 insurance for all of the full-time positions at the location with respect to which the credit
28 is claimed at the time the taxpayer applies for the credit. For the purposes of this
29 subsection, a taxpayer provides health insurance if it pays at least fifty percent (50%) of
30 the premiums for health care coverage that equals or exceeds the minimum provisions of
31 the basic health care plan of coverage recommended by the Small Employer Carrier
32 Committee pursuant to G.S. 58-50-125.

33 Each year that a taxpayer claims an installment or carryforward of a credit allowed
34 under this Article, the taxpayer must provide with the tax return the taxpayer's
35 certification that the taxpayer continues to provide health insurance for the jobs for which
36 the credit was claimed or the full-time jobs at the location with respect to which the credit
37 was claimed. If the taxpayer ceases to provide health insurance for the jobs during a
38 taxable year, the credit expires and the taxpayer may not take any remaining installment
39 or carryforward of the credit.

40 (b3) Environmental Impact. – A taxpayer is eligible for a credit allowed under this
41 Article only if the taxpayer certifies that, at the time the taxpayer applies for the credit,
42 the taxpayer has no pending administrative, civil, or criminal enforcement action based
43 on alleged significant violations of any program implemented by an agency of the

1 Department of Environment and Natural Resources, and has had no final determination
2 of responsibility for any significant administrative, civil, or criminal violation of any
3 program implemented by an agency of the Department of Environment and Natural
4 Resources within the last five years. A significant violation is a violation or alleged
5 violation that does not satisfy any of the conditions of G.S. 143-215.6B(d). The
6 Secretary of Commerce will provide the Department of Environment and Natural
7 Resources a list of all taxpayers making this certification. The Department of
8 Environment and Natural Resources may conduct random audit checks to verify
9 taxpayers' certifications. The Department of Environment and Natural Resources must
10 notify the Department of Revenue of any taxpayer certifications it determines are not
11 accurate.

12 (b4) Safety and Health Programs. – A taxpayer is eligible for a credit allowed under
13 this Article only if the taxpayer certifies that, as of the time the taxpayer applies for the
14 credit, at the business location with respect to which the credit is claimed, the taxpayer
15 has no outstanding citations under the Occupational Safety and Health Act and has had
16 no serious violation as defined in G.S. 95-127 within the last three years. The Secretary
17 of Commerce will provide the Department of Labor a list of all taxpayers making this
18 certification. The Department of Labor may conduct random audit checks to verify
19 taxpayers' certifications. The Department of Labor must notify the Department of
20 Revenue of any taxpayer certifications it determines are not accurate.

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

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

37 (e) Change in Ownership of Business. – The sale, merger, acquisition, or
38 bankruptcy of a business, or any transaction by which an existing business reformulates
39 itself as another business, does not create new eligibility in a succeeding business with
40 respect to credits for which the predecessor was not eligible under this Article. A
41 successor business may, however, take any installment of or carried-over portion of a
42 credit that its predecessor could have taken if it had a tax liability. The acquisition of a

1 business is a new investment that creates new eligibility in the acquiring taxpayer under
2 this Article if any of the following conditions are met:

- 3 (1) The business closed before it was acquired.
- 4 (2) The business was required to file a notice of plant closing or mass
5 layoff under the federal Worker Adjustment and Retraining
6 Notification Act, 29 U.S.C. § 2102, before it was acquired.
- 7 (3) The business was acquired by its employees through an employee
8 stock option transaction or another similar mechanism.

9 (f) Development Zone Project Credit. – Subsections (a) through (b4) of this
10 section do not apply to the credit for development zone projects provided in G.S. 105-
11 129.13.

12 **"§ 105-129.5. Tax election; cap.**

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

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

29 **"§ 105-129.6. Application; reports.**

30 (a) Application. – To claim the credits allowed by this Article, the taxpayer must
31 provide with the tax return the certification of the Secretary of Commerce that the
32 taxpayer meets all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13,
33 as applicable, with respect to each credit. A taxpayer shall apply to the Secretary of
34 Commerce for certification of eligibility. The application must be on a form provided by
35 the Secretary of Commerce and must contain any information necessary for the Secretary
36 of Commerce to determine whether the taxpayer meets the eligibility requirements. In
37 addition, the application must state the number of full-time jobs to be created that are
38 located within a development zone, the number of full-time jobs to be created that are
39 expected to be filled by employees residing within the development zone, and the number
40 of full-time jobs to be created that are expected to be filled by employees residing within
41 a census tract or census block group that has more than twenty percent (20%) of its
42 population below the poverty level according 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 (a) To claim a credit allowed by this Article, the taxpayer must provide any
37 information required by the Secretary of Revenue. Every taxpayer claiming a credit under
38 this Article shall maintain and make available for inspection by the Secretary of Revenue
39 any records the Secretary considers necessary to determine and verify the amount of the
40 credit to which the taxpayer is entitled. The burden of proving eligibility for the credit
41 and the amount of the credit shall rest upon the taxpayer, and no credit shall be allowed to
42 a taxpayer that fails to maintain adequate records or to make them available for
43 inspection.

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

- (1) The physical location of the jobs and investment with respect to which the credit is claimed, including the enterprise tier designation of the location and whether it is in a development zone. In addition, for each individual who fills a job at a location with respect to which a credit is claimed, the place where the individual resided before taking the job, including any enterprise tier or development zone designation of that place.
- (2) The type of business with respect to which the credit is claimed, as required by G.S. 105-129.4(a), and wage information described in G.S. 105-129.4(b).
- (3) If the credit is claimed with respect to a large investment certified under G.S. 105-129.4(b1), the amount of the investment requirement under that subsection that has been met to date.
- (4) Qualifying information required for the credit for creating jobs allowed under G.S. 105-129.8, the credit for investing in machinery and equipment allowed under G.S. 105-129.9, the credit for worker training allowed under G.S. 105-129.11, the credit for investing in central administrative office property allowed in G.S. 105-129.12, and any other credits allowed under this Article.

"§ 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

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

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

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

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

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

22 (d) Planned Expansion. – A taxpayer that signs a letter of commitment with the
23 Department of Commerce to create at least twenty new full-time jobs in a specific area
24 within two years of the date the letter is signed qualifies for the credit in the amount
25 allowed by this section based on the area's enterprise tier and development zone
26 designation for that year even though the employees are not hired that year. The credit
27 shall be available in the taxable year after at least twenty employees have been hired if
28 the hirings are within the two-year commitment period. The conditions outlined in
29 subsection (a) apply to a credit taken under this subsection except that if the area is
30 redesignated to a higher-numbered enterprise tier or loses its development zone
31 designation after the year the letter of commitment was signed, the credit is allowed
32 based on the area's enterprise tier and development zone designation for the year the letter
33 was signed. If the taxpayer does not hire the employees within the two-year period, the
34 taxpayer does not qualify for the credit. However, if the taxpayer qualifies for a credit
35 under subsection (a) in the year any new employees are hired, the taxpayer may take the
36 credit under that subsection.

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

38 **"§ 105-129.9. Credit for investing in machinery and equipment.**

39 (a) Credit. – If a taxpayer that has purchased or leased eligible machinery and
40 equipment places ~~it~~them in service in this State during the taxable year, the taxpayer is
41 allowed a credit equal to seven percent (7%) of the excess of the eligible investment
42 amount over the applicable threshold. Machinery and equipment ~~is~~are eligible if ~~it is~~
43 they are capitalized by the taxpayer for tax purposes under the Code and ~~is~~–not leased to

1 another party. In addition, in the case of a large investment, machinery and equipment
 2 that ~~is~~are not capitalized by the taxpayer ~~is~~are eligible if the taxpayer leases ~~it~~them from
 3 another party. The credit may not be taken for the taxable year in which the ~~equipment~~is
 4 machinery and equipment are placed in service but shall be taken in equal installments
 5 over the seven years following the taxable year in which ~~the equipment is~~they are placed
 6 in service.

7 (b) Eligible Investment Amount. – The eligible investment amount is the lesser of
 8 (i) the cost of the eligible machinery and equipment and (ii) the amount by which the cost
 9 of all of the taxpayer's eligible machinery and equipment that ~~is~~are in service in this State
 10 on the last day of the taxable year exceeds the cost of all of the taxpayer's eligible
 11 machinery and equipment that ~~was~~were in service in this State on the last day of the base
 12 year. The base year is that year, of the three immediately preceding taxable years, in
 13 which the taxpayer had the most eligible machinery and equipment in service in this
 14 State.

15 (c) Threshold. – The applicable threshold is the appropriate amount set out in the
 16 following table based on the enterprise tier of the area where the eligible machinery and
 17 equipment are placed in service during the taxable year. If the taxpayer places eligible
 18 machinery and equipment in service in more than one area during the taxable year, the
 19 threshold applies separately to the eligible machinery and equipment placed in service in
 20 each area. If the taxpayer places eligible machinery and equipment in service in an area
 21 over the course of a two-year period, the applicable threshold for the second taxable year
 22 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	

29 (d) Expiration. – If, in one of the seven years in which the installment of a credit
 30 accrues, the machinery and equipment with respect to which the credit was claimed are
 31 disposed of, taken out of service, or moved out of State, the credit expires and the
 32 taxpayer may not take any remaining installment of the credit. The taxpayer may,
 33 however, take the portion of an installment that accrued in a previous year and was
 34 carried forward to the extent permitted under G.S. 105-129.5.

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

41 (e) Planned Expansion. – A taxpayer that signs a letter of commitment with the
 42 Department of Commerce to place specific eligible machinery and equipment in service
 43 in an area within two years after the date the letter is signed may, in the year the eligible

1 machinery and equipment are placed in service in that area, calculate the credit for which
2 the taxpayer qualifies based on the area's enterprise tier and development zone
3 designation for the year the letter was signed. All other conditions apply to the credit, but
4 if the area has been redesignated to a higher-numbered enterprise tier or has lost its
5 development zone designation after the year the letter of commitment was signed, the
6 credit is allowed based on the area's enterprise tier and development zone designation for
7 the year the letter was signed. If the taxpayer does not place part or all of the specified
8 eligible machinery and equipment in service within the two-year period, the taxpayer
9 does not qualify for the benefit of this subsection with respect to the machinery and
10 equipment not placed in service within the two-year period. However, if the taxpayer
11 qualifies for a credit in the year the eligible machinery and equipment are placed in
12 service, the taxpayer may take the credit for that year as if no letter of commitment had
13 been signed pursuant to this subsection.

14 **"§ 105-129.10. Credit for research and development.**

15 (a) General Credit. – A taxpayer that claims for the taxable year a federal income
16 tax credit under section 41(a) of the Code for increasing research activities is allowed a
17 credit equal to five percent (5%) of the State's apportioned share of the taxpayer's
18 expenditures for increasing research activities. The State's apportioned share of a
19 taxpayer's expenditures for increasing research activities is the excess of the taxpayer's
20 qualified research expenses for the taxable year over the base amount, as determined
21 under section 41 of the Code, multiplied by a percentage equal to the ratio of the
22 taxpayer's qualified research expenses in this State for the taxable year to the taxpayer's
23 total qualified research expenses for the taxable year.

24 (b) Alternative Credit. – A taxpayer that claims the alternative incremental credit
25 under section 41(c)(4) of the Code for increasing research activities is allowed a credit
26 equal to twenty-five percent (25%) of the State's apportioned share of the federal credit
27 claimed. The State's apportioned share of the federal credit claimed is the amount of the
28 alternative incremental credit the taxpayer claimed under section 41(c)(4) of the Code for
29 the taxable year multiplied by a percentage equal to the ratio of the taxpayer's qualified
30 research expenses in this State for the taxable year to the taxpayer's total qualified
31 research expenses for the taxable year. For the purpose of this subsection, the amount of
32 the alternative incremental credit claimed by a taxpayer is determined without regard to
33 any reduction elected under section 280C(c) of the Code.

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

38 **"§ 105-129.11. Credit for worker training.**

39 (a) Credit. – A taxpayer that provides worker training for five or more of its
40 eligible employees during the taxable year is allowed a credit equal to the wages paid to
41 the eligible employees during the training. Wages paid to an employee performing his or
42 her job while being trained are not eligible for the credit. For positions located in an
43 enterprise tier one area, the credit may not exceed one thousand dollars (\$1,000) per

1 employee trained during the taxable year. For other positions, the credit may not exceed
2 five hundred dollars (\$500.00) per employee trained during the taxable year. A position is
3 located in an area if more than fifty percent (50%) of the employee's duties are performed
4 in the area.

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

8 (1) The employee occupies a job for which the taxpayer is eligible to claim
9 an installment of the credit for creating jobs.

10 (2) The employee is being trained to operate machinery and equipment for
11 which the taxpayer is eligible to claim an installment of the credit for
12 investing in machinery and equipment.

13 **"§ 105-129.12. Credit for investing in central administrative office property.**

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

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

40 (c) Expiration. – If, in one of the seven years in which the installment of a credit
41 accrues, the property with respect to which the credit was claimed is no longer used as a
42 central administrative office, the credit expires and the taxpayer may not take any
43 remaining installment of the credit. If, in one of the seven years in which the installment

1 of a credit accrues, part of the property with respect to which the credit was claimed is no
2 longer used as a central administrative office, the remaining installments of the credit
3 shall be reduced by multiplying it by the fraction described in subsection (b) of this
4 section. If, in one of the seven years in which the installment of a credit accrues, the total
5 number of employees the taxpayer employs at all of its central administrative offices in
6 this State drops by 40 or more, the credit expires and the taxpayer may not take any
7 remaining installment of the credit.

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

11 **"§ 105-129.13. Credit for development zone projects.**

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

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

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

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

26 b. Its primary mission is to develop and improve low-income
27 communities and neighborhoods through economic and related
28 development.

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

31 d. Its primary function is to act as deal maker and packager of
32 projects and activities that will increase its constituency's
33 opportunities to become owners, managers, and producers of
34 small businesses, to obtain affordable housing, and to obtain jobs
35 designed to produce positive cash flow and curb blight in the
36 targeted community.

37 (2) Community development purpose. – A purpose for which a city is
38 authorized to expend funds under G.S. 160A-456, 160A-457, and 160A-
39 457.2.

40 (3) Control. – A person controls an entity if the person owns, directly or
41 indirectly, more than ten percent (10%) of the voting securities of that
42 entity. As used in this subdivision, the term 'voting security' means a
43 security that (i) confers upon the holder the right to vote for the election

1 of members of the board of directors or similar governing body of the
2 business or (ii) is convertible into, or entitles the holder to receive upon
3 its exercise, a security that confers such a right to vote. A general
4 partnership interest is a voting security.

5 (4) Development zone agency. – Any of the following agencies that the
6 Department of Commerce certifies will undertake an improvement
7 project in a development zone:

8 a. A community-based development organization qualified under
9 24 C.F.R. § 570.204 to receive community development block
10 grant funds under the Housing and Community Development Act
11 of 1974, as amended, 42 U.S.C. § 5301, et seq., to carry out a
12 neighborhood revitalization project, a community economic
13 development project, or an energy conservation project.

14 b. A community action agency that has been officially designated as
15 such pursuant to section 210 of the Economic Opportunity Act of
16 1964, Public Law 88-452, 78 Stat. 508 and which has not lost its
17 designation as a result of a failure to comply with the provisions
18 of that act.

19 c. A community development corporation.

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

24 e. A community housing development organization qualified under
25 the HOME Investment Partnerships Act, 42 U.S.C. §§ 12701,
26 12704, and 24 C.F.R. § 92.2.

27 f. A local housing authority created under Article 1 of Chapter 157
28 of the General Statutes.

29 (5) Improvement project. – A project to construct or improve real property
30 for community development purposes or to acquire real property and
31 convert it for community development purposes. Construction or
32 improvement includes services provided by a development zone agency
33 directly related to the construction or improvement, and project
34 development fees charged by a developer for the construction or
35 improvement.

36 (c) Certification. – Before certifying that a development zone agency will
37 undertake an improvement project in a development zone, the Secretary must require the
38 agency to provide sufficient documentation to establish the identity of the agency, the
39 nature of the project, and that the project is for a community development purpose and is
40 located in a development zone. The Secretary of Commerce shall not certify a
41 development zone agency under this section if the agency, any of the agency's officers or
42 directors, or any partner of the agency has ever used any part of a contribution made
43 under this section for any purpose other than an improvement project.

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

8 (e) Application. – To be eligible for the tax credit provided in this section, in
9 addition to the application required under G.S. 105-129.6, the taxpayer must file an
10 application for the credit with the Secretary of Revenue on or before April 15 of the year
11 following the calendar year in which the contribution was made. The Secretary may
12 grant extensions of this deadline, as the Secretary finds appropriate, upon the request of
13 the taxpayer, except that the application may not be filed after September 15 of the year
14 following the calendar year in which the contribution was made. An application is
15 effective for the year in which it is timely filed. The application must be on a form
16 prescribed by the Secretary and must include any supporting documentation that the
17 Secretary may require. If a contribution for which a credit is applied for was of property
18 rather than cash, the taxpayer must include with the application a certified appraisal of
19 the value of the property contributed.

20 (f) Ceiling. – The total amount of all tax credits allowed to taxpayers under this
21 section for contributions made in a calendar year may not exceed four million dollars
22 (\$4,000,000). The Secretary of Revenue must calculate the total amount of tax credits
23 claimed from the applications filed under this section. If the total amount of tax credits
24 claimed for contributions made in a calendar year exceeds four million dollars
25 (\$4,000,000), the Secretary must allow a portion of the credits claimed by allocating a
26 total of four million dollars (\$4,000,000) in tax credits in proportion to the size of the
27 credit claimed by each taxpayer. If a credit is reduced pursuant to this subsection, the
28 Secretary must notify the taxpayer of the amount of the reduction of the credit on or
29 before December 31 of the year the application was filed. The Secretary's allocations
30 based on applications filed pursuant to this section are final and will not be adjusted to
31 account for credits applied for but not claimed.

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

1 Section 2.1. G.S. 105-259(b) is amended by adding a new subdivision to read:
2 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who
3 has access to tax information in the course of service to or employment by the State may
4 not disclose the information to any other person unless the disclosure is made for one of
5 the following purposes:

6 ...
7 (22) To furnish the Department of Commerce and the Employment Security
8 Commission a copy of the qualifying information required in G.S. 105-
9 129.7(b)."

10 PART II. SALES TAX CHANGES

11 Section 3.(a) G.S. 105-164.4(a)(1d)a. through k. are recodified as G.S. 105-
12 164.4A.

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

15 "(1d) The rate of one percent (1%) applies to the sales price of the
16 ~~following articles.~~ articles listed in G.S. 105-164.4A. The maximum
17 tax is eighty dollars (\$80.00) per article."

18 Section 3.(c) G.S. 105-164.4A, as recodified by this section, reads as rewritten:

19 "**§ 105-164.4A. Articles taxed at one percent (1%), eighty dollars (\$80.00).**

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

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

30 The term "machines and machinery" as used in this subdivision is
31 defined as follows:

32 The term shall include all vehicular implements, designed and sold
33 for any use defined in this subdivision, which are operated, drawn or
34 propelled by motor or animal power, but shall not include vehicular
35 implements which are operated wholly by hand, and shall not include
36 any motor vehicles required to be registered under Chapter 20 of the
37 General Statutes.

38 The term shall include all nonvehicular implements and mechanical
39 devices designed and sold for any use defined in this subdivision, which
40 have moving parts, or which require the use of any motor or animal
41 power, fuel, or electricity in their operation but shall not include
42 nonvehicular implements which have no moving parts and are operated
43 wholly by hand.

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

4 ~~b.~~(2) Manufacturing machinery. – Sales of mill machinery or mill
5 machinery parts and accessories to manufacturing industries and
6 plants, and sales to contractors and subcontractors purchasing mill
7 machinery or mill machinery parts and accessories for use by them
8 in the performance of contracts with manufacturing industries and
9 plants, and sales to subcontractors purchasing mill machinery or mill
10 machinery parts and accessories for use by them in the performance
11 of contracts with general contractors who have contracts with
12 manufacturing industries and plants. As used in this paragraph, the
13 term "manufacturing industries and plants" does not include
14 delicatessens, cafes, cafeterias, restaurants, and other similar retailers
15 that are principally engaged in the retail sale of foods prepared by
16 them for consumption on or off their premises.

17 ~~e.~~(3) Telephone company property. – Sales of central office equipment
18 and switchboard and private branch exchange equipment to
19 telephone companies regularly engaged in providing telephone
20 service to subscribers on a commercial basis, and sales to these
21 companies of prewritten computer programs used in providing
22 telephone service to their subscribers.

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

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

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

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

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

41 ~~i.~~(9) Farm containers. – Sales of containers to farmers or producers for
42 use in the planting, producing, harvesting, curing, marketing,
43 packaging, sale, or transporting or delivery of their products when

1 such containers do not go with and become part of the sale of their
2 products at wholesale or retail.

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

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

14 Section 4. G.S. 105-164.14 is amended by adding a new subsection to read:

15 "(h) Low Enterprise Tier Machinery. – Eligible taxpayers are allowed an annual
16 refund of sales and use taxes paid under this Article as provided in this subsection.

17 (1) Refunds. – An eligible person is allowed an annual refund of sales
18 and use taxes paid by it under this Article at the general rate of tax
19 on eligible machinery and equipment it purchases for use in an
20 enterprise tier one area or an enterprise tier two area, as defined in
21 G.S. 105-129.3. Liability incurred indirectly by the taxpayer for
22 sales and use taxes on these items is considered tax paid by the
23 taxpayer. A request for a refund must be in writing and must include
24 any information and documentation required by the Secretary. A
25 request for a refund is due within six months after the end of the
26 State's fiscal year. Refunds applied for after the due date are barred.

27 (2) Eligibility. – A person is eligible for the refund provided in this
28 subsection if it is engaged primarily in one of the businesses listed in
29 G.S. 105-129.4(a) in an enterprise tier one area or an enterprise tier
30 two area, as defined in G.S. 105-129.3.

31 (3) Machinery and equipment. – For the purpose of this subsection, the
32 term 'machinery and equipment' means engines, machinery,
33 equipment, tools, and implements used or designed to be used in one
34 of the businesses listed in G.S. 105-129.4(a). Machinery and
35 equipment are eligible for the refund provided in this subsection if
36 the taxpayer places them in service in an enterprise tier one area or
37 an enterprise tier two area, as defined in G.S. 105-129.3, capitalizes
38 them for tax purposes under the Code, and does not lease them to
39 another party."

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

41 "(i) Nonprofit Insurance Companies. – Eligible nonprofit insurance companies are
42 allowed an annual refund of sales and use taxes paid under this Article as provided in this
43 subsection.

- 1 (1) Refunds. – An eligible nonprofit insurance company is allowed an
2 annual refund of sales and use taxes paid by it under this Article on
3 building materials, building supplies, fixtures, and equipment that
4 become a part of its real property, and on computer systems
5 hardware and software it capitalizes for tax purposes under the Code.
6 Liability incurred indirectly by the company for sales and use taxes
7 on these items is considered tax paid by the company. A request for
8 a refund must be in writing and must include any information and
9 documentation required by the Secretary. A request for a refund is
10 due within six months after the end of the insurance company's fiscal
11 year. Refunds applied for after the due date are barred.
- 12 (2) Eligibility. – An insurance company is eligible for the refund
13 provided in this subsection if it meets all of the following conditions:
- 14 a. It is a nonprofit corporation.
15 b. It is operated for the exclusive purpose of providing insurance
16 and annuity contracts to or for the benefit of organizations
17 exempt from federal income tax under section 501(c)(3) of the
18 Code, and their employees.
19 c. The Secretary of Commerce has certified that the insurance
20 company will invest at least twenty million dollars (\$20,000,000)
21 in constructing a facility in this State for the conduct of its
22 operations.
- 23 (3) Forfeiture. – If an eligible insurance company does not make the
24 required minimum investment within five years after its first refund
25 under this subsection, it loses its eligibility and forfeits all refunds
26 already received under this subsection. Upon forfeiture, the
27 company is liable for tax under this Article equal to the amount of all
28 past taxes refunded under this subsection, plus interest at the rate
29 established in G.S. 105-241.1(i), computed from the date each
30 refund was issued. The tax and interest are due 30 days after the
31 date of the forfeiture. A company that fails to pay the tax and
32 interest is subject to the penalties provided in G.S. 105-236."

33 Section 5.(b) Effective January 1, 2008, G.S. 105-164.14(i)(1), as enacted by this
34 section, reads as rewritten:

35 "(i) Nonprofit Insurance Companies. – Eligible nonprofit insurance companies are
36 allowed an annual refund of sales and use taxes paid under this Article as provided in this
37 subsection.

- 38 (1) Refunds. – An eligible nonprofit insurance company is allowed an
39 annual refund of sales and use taxes paid by it under this Article on
40 ~~building materials, building supplies, fixtures, and equipment that become~~
41 ~~a part of its real property, and on computer systems hardware and~~
42 software it capitalizes for tax purposes under the Code. ~~Liability~~
43 ~~incurred indirectly by the company for sales and use taxes on these items~~

1 is considered tax paid by the company.—A request for a refund must be
2 in writing and must include any information and documentation
3 required by the Secretary. A request for a refund is due within six
4 months after the end of the insurance company's fiscal year.
5 Refunds applied for after the due date are barred."

6 Section 6.(a) G.S. 105-164.3 is amended by adding a new subdivision to read:
7 "(6e) Interstate passenger air carrier. — A person whose primary business
8 is scheduled passenger air transportation, as defined in the North
9 American Industry Classification System adopted by the United
10 States Office of Management and Budget, in interstate commerce."

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

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

14 "(6b) Hub. —~~An interstate air courier's~~ Either of the following:

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

17 a.1. The air courier has allocated to the airport under G.S.
18 ~~105-388-105-338~~ more than sixty percent (60%) of its
19 aircraft value apportioned to this State.

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

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

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

28 1. The air carrier has allocated to the airport under G.S. 105-
29 338 more than sixty percent (60%) of its aircraft value
30 apportioned to this State.

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

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

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

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

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

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

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

3 "(12) Flight crew training equipment. – Sales to an interstate passenger
4 air carrier or an interstate air courier of aircraft simulators for flight
5 crew training for use at the air carrier or air courier's hub."

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

7 "(a) Interstate Carriers. – An interstate carrier is allowed a refund, in accordance
8 with this section, of part of the sales and use taxes paid by it on fuel, lubricants, repair
9 parts, and accessories purchased in this State for a motor vehicle, railroad car,
10 locomotive, or airplane the carrier operates. An 'interstate carrier' is a person who is
11 engaged in transporting persons or property in interstate commerce for compensation.
12 The Secretary shall prescribe the periods of time, whether monthly, quarterly,
13 semiannually, or otherwise, with respect to which refunds may be claimed, and shall
14 prescribe the time within which, following these periods, an application for refund may
15 be made.

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

- 18 (1) A list identifying the fuel, lubricants, repair parts, and accessories
19 purchased by the applicant inside or outside this State during the
20 refund period.
- 21 (2) The purchase price of the items listed in subdivision (1) of this
22 subsection.
- 23 (3) The sales and use taxes paid in this State on the listed items.
- 24 (4) The number of miles the applicant's motor vehicles, railroad cars,
25 locomotives, and airplanes were operated both inside and outside
26 this State during the refund period.
- 27 (5) Any other information required by the Secretary.

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

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

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

42 **"ARTICLE 3B.**
43 **"BUSINESS TAX CREDIT-CREDITS."**

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

3 **"§ 105-129.16A. Credit for low-income housing.**

4 (a) Credit. – A taxpayer that is allowed for the taxable year a federal income tax
5 credit for low-income housing under section 42 of the Code with respect to a qualified
6 North Carolina low-income building, is allowed a credit under this Article equal to a
7 percentage of the total federal credit allowed with respect to that building. For the
8 purposes of this section, the total federal credit allowed is the total allowed during the 10-
9 year federal credit period plus the disallowed first-year credit allowed in the 11th year.
10 For the purposes of this section, the total federal credit is calculated based on qualified
11 basis as of the end of the first year of the credit period and is not recalculated to reflect
12 subsequent increases in qualified basis. For buildings that meet condition (c)(1) of this
13 section, the credit percentage is seventy-five percent (75%). For other buildings, the
14 credit percentage is twenty-five percent (25%).

15 (b) Timing. – The credit must be taken in equal installments over the five years
16 beginning in the first taxable year in which the federal credit is claimed for that building.
17 During the first taxable year in which the credit allowed under this section may be taken
18 with respect to a building, the amount of the installment must be multiplied by the
19 applicable fraction under section 42(f)(2)(A) of the Code. Any reduction in the amount
20 of the first installment as a result of this multiplication is carried forward and may be
21 taken in the first taxable year after the fifth installment is allowed under this section.

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

27 (1) It is located in an area that, at the time the federal credit is allocated to
28 the building, is a tier one or two enterprise area, as defined in G.S. 105-
29 129.3.

30 (2) It is located in an area that, at the time the federal credit is allocated to
31 the building, is a tier three or four enterprise area, and forty percent
32 (40%) of its residential units are both rent-restricted and occupied by
33 individuals whose income is fifty percent (50%) or less of area median
34 gross income as defined in the Code.

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

40 (d) Expiration. – If, in one of the five years in which an installment of the credit
41 under this section accrues, the taxpayer is no longer eligible for the corresponding federal
42 credit with respect to the same qualified North Carolina low-income building, then the
43 credit under this section expires and the taxpayer may not take any remaining installment

1 of the credit. The taxpayer may, however, take the portion of an installment that accrued
2 in a previous year and was carried forward to the extent permitted under G.S. 105-129.17.

3 (e) Forfeiture. – If the taxpayer is required under section 42(j) of the Code to
4 recapture all or part of a federal credit under that section with respect to a qualified North
5 Carolina low-income building, the taxpayer forfeits the corresponding part of the credit
6 allowed under this section with respect to that qualified North Carolina low-income
7 building. A taxpayer that forfeits a credit under this section is liable for all past taxes
8 avoided as a result of the credit plus interest at the rate established under G.S. 105-
9 241.1(i), computed from the date the taxes would have been due if the credit had not been
10 allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a
11 taxpayer that fails to pay the past taxes and interest by the due date is subject to the
12 penalties provided in G.S. 105-236."

13 Section 12. Reserved.

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

15 "**§ 105-129.17. Tax election; cap.**

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

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

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

29 "**§ 105-129.18. Substantiation.**

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

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

39 "**§ 105-129.19. Reports.**

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

- 1 (1) The number of taxpayers that claimed the ~~credit~~ credits allowed in this
2 Article.
- 3 (2) The cost of business property with respect to which business property
4 credits were claimed.
- 5 (2a) The location of each qualified North Carolina low-income building with
6 respect to which a low-income housing credit was claimed.
- 7 (3) The total cost to the General Fund of the credits claimed."

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

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

14 If a taxpayer files a return reflecting a federal determination as provided in G.S. 105-
15 29, 105-130.20, 105-159, 105-160.8, 105-163.6A, or 105-197.1, the Secretary must
16 propose an assessment of any tax due within one year after the return is filed or within
17 three years of when the original return was filed or due to be filed, whichever is later. If
18 there is a federal determination and the taxpayer does not file the required return, the
19 Secretary must propose an assessment of any tax due within three years after the date the
20 Secretary received the final report of the federal determination. #

21 If a taxpayer forfeits a tax credit pursuant to G.S. 105-163.014 or Article 3A of or tax
22 benefit pursuant to forfeiture provisions of this Chapter, the Secretary must assess any tax
23 due as a result of the forfeiture within three years after the date of the forfeiture. If a
24 taxpayer elects under section 1033(a)(2)(A) of the Code not to recognize gain from
25 involuntary conversion of property into money, the Secretary must assess any tax due as
26 a result of the conversion or election within the applicable period provided under section
27 1033(a)(2)(C) or section 1033(a)(2)(D) of the Code. If a taxpayer sells at a gain the
28 taxpayer's principal residence, the Secretary must assess any tax due as a result of the sale
29 within the period provided under section 1034(j) of the Code.

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

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

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

40 PART IV. MISCELLANEOUS CHANGES

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

42 "(a) Creation and Purpose of Fund. – There is created in the Department of
43 Commerce the Industrial Development Fund to provide funds to assist the local

1 government units of the most economically distressed counties in the State in creating
2 jobs in certain industries. The Department of Commerce shall adopt rules providing for
3 the administration of the program. Those rules shall include the following provisions,
4 which shall apply to each grant from the fund:

5 (1) The funds shall be used for (i) installation of or purchases of
6 equipment for eligible industries, (ii) structural repairs,
7 improvements, or renovations of existing buildings to be used for
8 expansion of eligible industries, or (iii) construction of or
9 improvements to new or existing water, sewer, gas, or electrical
10 utility distribution lines or equipment for existing or new or
11 proposed industrial buildings to be used for eligible industries. To
12 be eligible for funding, the water, sewer, gas, or electrical utility
13 lines or facilities shall be located on the site of the building or, if
14 not located on the site, shall be directly related to the operation of
15 the specific eligible industrial activity.

16 (1a) The funds shall be used for projects located in economically
17 distressed counties except that the Secretary of Commerce may use
18 up to one hundred thousand dollars (\$100,000) to provide
19 emergency economic development assistance in any county that is
20 documented to be experiencing a major economic dislocation.

21 (2) The funds shall be used by the city and county governments for
22 projects that will directly result in the creation of new jobs. The
23 funds shall be expended at a maximum rate of five thousand dollars
24 (\$5,000) per new job created up to a maximum of five hundred
25 thousand dollars (\$500,000) per project.

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

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

32 (5) No project subject to the Environmental Policy Act, Article 1 of
33 Chapter 113A of the General Statutes, shall be funded unless the
34 Secretary of Commerce finds that the proposed project will not
35 have a significant adverse effect on the environment. The
36 Secretary of Commerce shall not make this finding unless the
37 Secretary has first received a certification from the Department of
38 Environment and Natural Resources that concludes, after
39 consideration of avoidance and mitigation measures, that the
40 proposed project will not have a significant adverse effect on the
41 environment."

42 Section 17.2. G.S. 130A-310.38 reads as rewritten:

43 **"§ 130A-310.38. Brownfields Property Reuse Act Implementation Account.**

1 The Brownfields Property Reuse Act Implementation Account is created as a
2 nonreverting interest-bearing account in the Office of the State Treasurer. The Account
3 shall consist of fees and interest collected under G.S. 130A-310.39, moneys appropriated
4 to it by the General Assembly, moneys received from the federal government, moneys
5 contributed by private organizations, and moneys received from any other source. Funds
6 in the Account shall be used by the Department to defray ~~a portion of~~ the costs of
7 implementing this Part. The Department may contract with a private entity for any
8 services necessary to implement this Part."

9 Section 17.3. G.S. 130A-310.39 reads as rewritten:

10 "**§ 130A-310.39. Fees.**

11 (a) The Department shall collect the following fees:

12 (1) A prospective developer who submits a proposed brownfields
13 agreement for review by the Department shall pay a ~~an~~ initial fee of
14 ~~one two thousand dollars (\$1,000).~~ (\$2,000).

15 (2) A prospective developer who ~~submits a final report certifying~~
16 ~~completion of remediation under~~ enters into a brownfields agreement
17 with the Department shall pay a fee of five hundred dollars (\$500.00).
18 in an amount equal to the full cost to the Department and the
19 Department of Justice of all activities related to the brownfields
20 agreement, including but not limited to negotiation of the
21 brownfields agreement, public notice and community involvement,
22 and monitoring the implementation of the brownfields agreement.
23 The procedure by which the amount of this fee is determined shall
24 be established by agreement between the prospective developer and
25 the Department and shall be set out as a part of the brownfields
26 agreement. The fee imposed by this subdivision shall be paid in
27 two installments. The first installment shall be due at the time the
28 prospective developer and the Department enter into the
29 brownfields agreement and shall equal all costs that have been
30 incurred by the Department and the Department of Justice at that
31 time less the amount of the initial fee paid pursuant to subdivision
32 (1) of this subsection. The Department shall not enter into the
33 brownfields agreement unless the first installment is paid in full
34 when due. The second installment shall be due at the time the
35 prospective developer submits a final report certifying completion
36 of remediation under the brownfields agreement and shall include
37 any additional costs that have been incurred by the Department and
38 the Department of Justice, including all costs of monitoring the
39 implementation of the brownfields agreement.

40 (b) Fees and interest imposed under this section shall be credited to the
41 Brownfields Property Reuse Act Implementation Account.

42 (c) If a prospective developer fails to pay the full amount of any fee due under this
43 section, interest on the unpaid portion of the fee shall accrue from the time the fee is due

1 until paid at the rate established by the Secretary of Revenue pursuant to G.S. 105-
2 241.1(i). A lien for the amount of the unpaid fee plus interest shall attach to the real and
3 personal property of the prospective developer and to the brownfields property until the
4 fee and interest is paid. The Department may collect unpaid fees and interest in any
5 manner that a unit of local government may collect delinquent taxes."

6 Section 18. To the extent feasible, the Department of Commerce shall
7 encourage and support reasonable efforts to develop agreements to reduce the use of
8 excessive tax and economic incentives for interstate competition in luring businesses
9 from one state to another. The Department of Commerce shall also support appropriate
10 and reasonable federal legislation to prohibit or reduce states' use of tax and economic
11 incentives for interstate competition in luring businesses from one state to another. This
12 section does not require the Secretary of Commerce to support actions that will place the
13 State at an economic disadvantage or that are contrary to the economic well-being of the
14 citizens of the State. The Department of Commerce shall report on its progress in these
15 efforts to the Revenue Laws Study Committee by March 1, 2000, and March 1, 2001.

16 Section 18.1. Section 4 of S.L. 1997-277 reads as rewritten:

17 "Section 4. (a) The Department of Commerce shall study the effect of the tax
18 incentives provided in the William S. Lee Quality Jobs and Business Expansion Act,
19 codified as Article 3A of Chapter 105 of the General Statutes, on tax equity. This study
20 shall include the following:

- 21 (1) Reexamining the formula in G.S. 105-129.3(b) used to define
22 enterprise tiers, to include consideration of alternative measures for
23 more equitable treatment of counties in similar economic
24 circumstances.
- 25 (2) Considering whether the assignment of tiers and the applicable
26 thresholds are equitable for smaller counties, for example those
27 under 50,000 in population.
- 28 (3) Compiling any available data on whether expanding North
29 Carolina businesses receive fewer benefits than out-of-State
30 businesses that locate to North Carolina.

31 (b) The Department of Commerce shall study the effectiveness of the tax
32 incentives provided in the William S. Lee Quality Jobs and Business Expansion Act,
33 codified as Article 3A of Chapter 105 of the General Statutes. This study shall include:

- 34 (1) Study of the distribution of tax incentives across new and
35 expanding industries.
- 36 (2) Examination of data on economic recruitment for the period 1994
37 through ~~1998~~ 2000 by county, by industry type, by size of
38 investment, and by number of jobs, and other relevant information
39 to determine the pattern of business locations and expansions
40 before and after the enactment of the William S. Lee Act
41 incentives.
- 42 (3) Measuring the direct costs and benefits of the tax incentives.

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

3 (c) The Department of Commerce shall report the results of these studies and its
4 recommendations to the ~~1999-2001~~ General Assembly by April 1, ~~1999-2001~~."

5 **PART V. EFFECTIVE DATES**

6 Section 21. This act does not affect the rights or liabilities of the State, a
7 taxpayer, or another person arising under a statute amended or repealed by this act before
8 the effective date of its amendment or repeal; nor does it affect the right to any refund or
9 credit of a tax that accrued under the amended or repealed statute before the effective
10 date of its amendment or repeal.

11 Section 22. Customer Service Center and Electronic Mail Order House. G.S.
12 105-129.2(3a) and (5a) and G.S. 105-129.4(a)(2a) and (3a), as enacted by Section 2 of
13 this act, and the amendments to G.S. 105-129.4(a1) enacted by Section 2 of this act
14 become effective for taxable years beginning on or after January 1, 2000.

15 Section 23. NAICS Code and Customer Service Center Changes. – G.S. 105-
16 129.2(2)b., as enacted by Section 2 of this act, is effective retroactively as of January 1,
17 1999. Except as provided in Section 22 of this act, the remaining amendments to G.S.
18 105-129.2 made by Section 2 of this act are effective when this act becomes law.

19 Section 24. Small County Enhancements. – G.S. 105-129.3(e) and (f), as
20 enacted by Section 2 of this act, become effective for taxable years beginning on or after
21 January 1, 2000.

22 Section 25. Development Zone Definitions. – The amendments to G.S. 105-
23 129.3A made by Section 2 of this act become effective August 1, 1999, and apply to
24 applications filed on or after that date. Notwithstanding the provisions of G.S. 105-
25 129.3A(b), a development zone designation made in 1998 or 1999 is effective until
26 January 1, 2001.

27 Section 26. Quality Jobs Assurance. – G.S. 105-129.4(b2), (b3), and (b4), as
28 enacted by Section 2 of this act, become effective for taxable years beginning on or after
29 January 1, 2000, and apply to credits for which applications are first filed on or after that
30 date.

31 Section 27. All Credits Against Gross Premiums Tax. – The amendment to
32 G.S. 105-129.5(a) made by Section 2 of this act is effective for taxable years beginning
33 on or after January 1, 1999.

34 Section 28. Application Fees and Information. – The amendments to G.S. 105-
35 129.6(a) and (a1) made by Section 2 of this act are effective 30 days after this act
36 becomes law, and apply to applications filed on or after that date. Section 2.1 of this act
37 and the amendments to G.S. 105-129.7 made by Section 2 of this act become effective
38 January 1, 2000.

39 Section 29. Development Zone Projects Credit. – G.S. 105-129.13, as enacted
40 by Section 2 of this act, is effective for taxable years beginning on or after January 1,
41 2000.

1 Section 30. Sales Tax Refund for Tiers One and Two Equipment. – Section 4
2 of this act becomes effective January 1, 2000, and applies to taxes paid on or after that
3 date.

4 Section 31. Temporary Sales Tax Refund for Nonprofit Insurance Companies.
5 – Section 5(a) of this act becomes effective May 1, 1999, and applies to taxes paid on or
6 after that date. Section 5(b) of this act becomes effective January 1, 2008, and applies to
7 taxes paid on or after that date.

8 Section 32. Sales Tax Preferences for Interstate Air Carriers. – Section 7(c) of
9 this act becomes effective January 1, 2001, and applies to sales made on or after that date.
10 The remainder of Sections 6 through 8 of this act is effective retroactively as of May 1,
11 1999, and applies to sales made on or after that date. Section 9 of this act becomes
12 effective October 1, 1999.

13 Section 33. Affordable Housing Credit. – Part III of this act is effective for
14 taxable years beginning on or after January 1, 2000, and applies to buildings to which
15 federal credits are allocated on or after January 1, 2000.

16 Section 33.1. Brownfields Property Reuse Act. – Sections 17.2 and 17.3 of
17 this act are effective when this act becomes law. G.S. 130A-310.39, as amended by
18 Section 17.3 of this act, applies to any proposed brownfields agreement that is submitted
19 to the Department of Environment and Natural Resources for review on or after the date
20 this act becomes law.

21 Section 35. Remainder. – The remainder of this act is effective when it
22 becomes law.