

1 State economic trends that contribute to the reduction in the State's
2 industrial base and that inhibit the State's ability to sustain or attract
3 new and expanding businesses.

4 (3) The economic condition of the State is not static, and recent changes in
5 the State's economic condition have created economic distress that
6 requires a reevaluation of certain existing State programs and the
7 enactment of a new program as provided in this Article that is
8 designed to stimulate new economic activity and to create new jobs
9 within the State.

10 (4) The enactment of this Article is necessary to stimulate the economy
11 and create new jobs in North Carolina, and this Article will promote
12 the general welfare and confer, as its primary purpose and effect,
13 benefits on citizens throughout the State through the creation of new
14 jobs, an enlargement of the overall tax base, an expansion and
15 diversification of the State's industrial base, and an increase in revenue
16 to the State and its political subdivisions.

17 (5) The purpose of this Article is to stimulate economic activity and to
18 create new jobs within the State.

19 (6) The State is in need of a focused tax credit program that encourages
20 and facilitates economic growth and development within the State.

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

24 "**§ 105-129.81. Definitions.**

25 The following definitions apply in this Article:

26 (1) Agrarian growth zone. – Defined in G.S. 143B-437.10.

27 (2) Aircraft maintenance and repair. – The provision of specialized
28 maintenance or repair services for commercial aircraft or the
29 rebuilding of commercial aircraft.

30 (3) Air courier services. – The furnishing of air delivery of individually
31 addressed letters and packages for compensation, in interstate
32 commerce, except by the United States Postal Service.

33 (4) Business property. – Tangible personal property that is used in a
34 business and capitalized under the Code.

35 (5) Company headquarters. – A corporate, subsidiary, or regional
36 managing office, as defined by NAICS in United States industry
37 551114, that is responsible for strategic or organizational planning and
38 decision making for the business on an international, national, or
39 multistate regional basis.

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

- 1 (7) Customer service call center. – The provision of support service by a
2 business to its customers by telephone or other electronic means to
3 support products or services of the business. For the purposes of this
4 definition, an establishment is primarily engaged in providing support
5 services by telephone or other electronic means only if at least sixty
6 percent (60%) of its calls are incoming or at least sixty percent (60%)
7 of its other electronic communications are initiated by its customers.
8 (8) Development tier. – The classification assigned to an area pursuant to
9 G.S. 143B-437.08.
10 (9) Electronic shopping and mail order houses. – An industry in electronic
11 shopping and mail order houses industry group 4541 as defined by
12 NAICS.
13 (10) Establishment. – Defined in 29 C.F.R. § 1904.46, as it existed on
14 January 1, 2002.
15 (11) Full-time job. – A position that requires at least 1,600 hours of work
16 per year and is intended to be held by one employee during the entire
17 year. A full-time employee is an employee who holds a full-time job.
18 (12) Hub. – Defined in G.S. 105-164.3.
19 (13) Information technology and services. – An industry in one of the
20 following:
21 a. Internet service providers, Web search portals, and data
22 processing subsector 518 as defined by NAICS.
23 b. Software publishers industry group 5112 as defined by NAICS.
24 c. Computer systems design and related services industry group
25 5415 as defined by NAICS.
26 (14) Long-term unemployed worker. – An individual that has been totally
27 unemployed for at least the preceding 26 consecutive weeks as
28 evidenced by records maintained by the Employment Security
29 Commission.
30 (15) Manufacturing. – An industry in manufacturing sectors 31 through 33,
31 as defined by NAICS, but not including quick printing or retail
32 bakeries.
33 (16) Motorsports facility. – A motorsports racetrack classified in the United
34 States racetrack national industry 711212, as defined by NAICS.
35 (17) Motorsports racing team. – A professional racing team primarily
36 engaged in the research and development, design, manufacture, repair,
37 maintenance, and operation of motor vehicles used in live motorsports
38 racing events before a paying audience.
39 (18) NAICS. – The North American Industry Classification System adopted
40 by the United States Office of Management and Budget as of
41 December 31, 2002.
42 (19) New job. – A full-time job that represents a net increase in the number
43 of the taxpayer's employees statewide. A new employee is an
44 employee who holds a new job. The term does not include a job

1 currently located in this State that is transferred to the business from a
2 related member of the business.

3 (20) Overdue tax debt. – Defined in G.S. 105-243.1.

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

5 (22) Related member. – Defined in G.S. 105-130.7A.

6 (23) Research and development. – An industry in scientific research and
7 development services industry group 5417 as defined by NAICS.

8 (24) Urban progress zone. – The classification assigned to an area pursuant
9 to G.S. 143B-437.09.

10 (25) Warehousing. – An industry in warehousing and storage subsector 493
11 as defined by NAICS.

12 (26) Wholesale trade. – An industry in wholesale trade sector 42 as defined
13 by NAICS.

14 **"§ 105-129.82. Sunset; studies.**

15 (a) Sunset. – This Article is repealed effective for business activities that occur
16 on or after January 1, 2011.

17 (b) Equity Study. – The Department of Commerce shall study the effect of the
18 tax incentives provided in this Article on tax equity. This study shall include the
19 following:

20 (1) Reexamining the formula in G.S. 143B-437.08 used to define
21 development tiers, to include consideration of alternative measures for
22 more equitable treatment of counties in similar economic
23 circumstances.

24 (2) Considering whether the assignment of tiers and the applicable
25 thresholds are equitable for smaller counties.

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

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

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

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

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

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

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

44 **"§ 105-129.83. Eligibility; forfeiture.**

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

6 (1) Aircraft maintenance and repair.

7 (2) Air courier services hub.

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

10 (4) Customer service call centers.

11 (5) Electronic shopping and mail order houses.

12 (6) Information technology and services.

13 (7) Manufacturing.

14 (8) Motorsports facility.

15 (9) Motorsports racing team.

16 (10) Research and development.

17 (11) Warehousing.

18 (12) Wholesale trade.

19 (b) Company Headquarters Eligibility. – A taxpayer is eligible for a credit under
20 this Article with respect to a company headquarters only if the taxpayer creates at least
21 75 new jobs at the company headquarters within a 24-month period. A taxpayer that
22 meets this job creation requirement is eligible for credits under this Article with respect
23 to the company headquarters for three taxable years beginning with the year in which
24 the job creation requirement is satisfied. A taxpayer that creates an additional 75 new
25 jobs at the company headquarters in a 24-month period during a three-year eligibility
26 period does not qualify for any extended eligibility period. However, a taxpayer that
27 creates an additional 75 new jobs at the company headquarters in a 24-month period
28 after the completion of a three-year eligibility period is eligible for credits with respect
29 to the company headquarters for an additional three taxable years beginning in the year
30 in which the additional job creation requirement is satisfied.

31 (c) Wage Standard. – A taxpayer is eligible for a credit under this Article in a
32 development tier two or three area only if the taxpayer satisfies a wage standard. The
33 taxpayer is not required to satisfy a wage standard if the activity occurs in a
34 development tier one area. Jobs that are located within an urban progress zone or an
35 agrarian growth zone but not in a development tier one area satisfy the wage standard if
36 they pay an average weekly wage that is at least equal to ninety percent (90%) of the
37 lesser of the average wage for all insured private employers in the State and the average
38 wage for all insured private employers in the county. All other jobs satisfy the wage
39 standard if they pay an average weekly wage that is at least equal to the lesser of one
40 hundred ten percent (110%) of the average wage for all insured private employers in the
41 State and ninety percent (90%) of the average wage for all insured private employers in
42 the county. The Department of Commerce shall annually publish the wage standard for
43 each county.

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

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

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

21 (e) Environmental Impact. – A taxpayer is eligible for a credit allowed under this
22 Article only if the taxpayer certifies that, at the time the taxpayer claims the credit, the
23 taxpayer has no pending administrative, civil, or criminal enforcement action based on
24 alleged significant violations of any program implemented by an agency of the
25 Department of Environment and Natural Resources and has had no final determination
26 of responsibility for any significant administrative, civil, or criminal violation of any
27 program implemented by an agency of the Department of Environment and Natural
28 Resources within the last five years. A significant violation is a violation or alleged
29 violation that does not satisfy any of the conditions of G.S. 143-215.6B(d). The
30 Secretary of Environment and Natural Resources shall notify the Department of
31 Revenue annually of every person that currently has any of these pending actions and
32 every person that has had any of these final determinations within the last five years.

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

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

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

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

15 (i) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the
16 taxpayer was not eligible for the credit for the calendar year in which the taxpayer
17 engaged in the activity for which the credit was claimed. In addition, a taxpayer forfeits
18 a credit for investment in real property under G.S. 105-129.89 if the taxpayer fails to
19 timely create the number of required new jobs or to timely make the required level of
20 investment under G.S. 105-129.89(b). A taxpayer that forfeits a credit under this Article
21 is liable for all past taxes avoided as a result of the credit plus interest at the rate
22 established under G.S. 105-241.1(i), computed from the date the taxes would have been
23 due if the credit had not been allowed. The past taxes and interest are due 30 days after
24 the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by
25 the due date is subject to the penalties provided in G.S. 105-236.

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

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

36 (2) The business was required to file a notice of plant closing or mass
37 layoff under the federal Worker Adjustment and Retraining
38 Notification Act, 29 U.S.C. § 2101, before it was acquired.

39 (3) The business was acquired by its employees directly or indirectly
40 through an acquisition company under an employee stock option
41 transaction or another similar mechanism. For the purpose of this
42 subdivision, 'acquired' means that as part of the initial purchase of a
43 business by the employees, the purchase included an agreement for the

1 employees through the employee stock option transaction or another
2 similar mechanism to obtain one of the following:

- 3 a. Ownership of more than fifty percent (50%) of the business.
4 b. Ownership of not less than forty percent (40%) of the business
5 within seven years if the business has tangible assets with a net
6 book value in excess of one hundred million dollars
7 (\$100,000,000) and has the majority of its operations located in
8 a development tier one area.

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

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

25 **"§ 105-129.84. Tax election; cap; carryforwards; limitations.**

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

32 (b) Cap. – The credits allowed under this Article may not exceed fifty percent
33 (50%) of the cumulative amount of taxes against which they may be claimed for the
34 taxable year, reduced by the sum of all other credits allowed against those taxes, except
35 tax payments made by or on behalf of the taxpayer. This limitation applies to the
36 cumulative amount of credit, including carryforwards, claimed by the taxpayer under
37 this Article for the taxable year.

38 (c) Carryforward. – Unless a longer carryforward period applies, any unused
39 portion of a credit allowed under G.S. 105-129.87 or G.S. 105-129.88 may be carried
40 forward for the succeeding five years, and any unused portion of a credit allowed under
41 G.S. 105-129.89 may be carried forward for the succeeding 15 years. If the Secretary of
42 Commerce makes a written determination that the taxpayer is expected to purchase or
43 lease, and place in service in connection with an eligible business within a two-year
44 period, at least one hundred fifty million dollars (\$150,000,000) worth of business and

1 real property, any unused portion of a credit under this Article with respect to the
2 establishment that satisfies that condition may be carried forward for the succeeding 20
3 years. If the taxpayer does not make the required level of investment, the taxpayer shall
4 apply the five-year carryforward period rather than the 20-year carryforward period.

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

8 **"§ 105-129.85. Fees and reports.**

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

17 (b) Reports. – The Department of Revenue shall publish by May 1 of each year
18 the following information itemized by credit and by taxpayer for the 12-month period
19 ending the preceding December 31:

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

29 **"§ 105-129.86. Substantiation.**

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

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

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

§ 105-129.87. Credit for creating jobs.

(a) Credit. – A taxpayer that meets the eligibility requirements set out in G.S. 105-129.83 and satisfies the threshold requirement for new job creation in this State under subsection (b) of this section during the taxable year is allowed a credit for creating jobs. The amount of the credit for each new job created is set out in the table below and is based on the development tier designation of the county in which the job is located. If the job is located in an urban progress zone or an agrarian growth zone, the amount of the credit is increased by one thousand dollars (\$1,000) per job. In addition, if a job located in an urban progress zone or an agrarian growth zone is filled by a resident of that zone or by a long-term unemployed worker, the amount of the credit is increased by an additional two thousand dollars (\$2,000) per job.

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

(b) Threshold. – The applicable threshold is the appropriate amount set out in the following table based on the development tier designation of the county where the new jobs are created during the taxable year. If the taxpayer creates new jobs at more than one eligible establishment in a county during the taxable year, the threshold applies to the aggregate number of new jobs created at all eligible establishments within the county during that year. If the taxpayer creates new jobs at eligible establishments in different counties during the taxable year, the threshold applies separately to the aggregate number of new jobs created at eligible establishments in each county. If the taxpayer creates new jobs in an urban progress zone or an agrarian growth zone, the applicable threshold is the one for a development tier one area.

<u>Area Development Tier</u>	<u>Threshold</u>
<u>Tier One</u>	<u>5</u>
<u>Tier Two</u>	<u>10</u>
<u>Tier Three</u>	<u>15</u>

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

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

15 (e) Transferred Jobs. – Jobs transferred from one area in the State to another area
16 in the State are not considered new jobs for purposes of this section. Jobs that were
17 located in this State and that are transferred to the taxpayer from a related member of
18 the taxpayer are not considered new jobs for purposes of this section. If, in one of the
19 four years in which the installment of a credit accrues, the job with respect to which the
20 credit was claimed is moved to an area in a higher-numbered development tier or out of
21 an urban progress zone or an agrarian growth zone, the remaining installments of the
22 credit are allowed only to the extent they would have been allowed if the job was
23 initially created in the area to which it was moved. If, in one of the years in which the
24 installment of a credit accrues, the job with respect to which the credit was claimed is
25 moved to an area in a lower-numbered development tier or an urban progress zone or an
26 agrarian growth zone, the remaining installments of the credit shall be calculated as if
27 the job had been created initially in the area to which it was moved.

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

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

35 **"§ 105-129.88. Credit for investing in business property.**

36 (a) General Credit. – A taxpayer that meets the eligibility requirements set out in
37 G.S. 105-129.83 and that has purchased or leased business property and placed it in
38 service in this State during the taxable year and that has satisfied the threshold
39 requirements of subsection (c) of this section is allowed a credit equal to the applicable
40 percentage of the excess of the eligible investment amount over the applicable
41 threshold. If the taxpayer places business property in service in an urban progress zone
42 or an agrarian growth zone, the applicable percentage is the one for a development tier
43 one area. Business property is eligible if it is not leased to another party. The credit may
44 not be taken for the taxable year in which the business property is placed in service but

1 shall be taken in equal installments over the four years following the taxable year in
 2 which it is placed in service. The applicable percentage is as follows:

<u>Area Development Tier</u>	<u>Applicable Percentage</u>
<u>Tier One</u>	<u>7%</u>
<u>Tier Two</u>	<u>5%</u>
<u>Tier Three</u>	<u>3.5%</u>

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

14 (c) Threshold. – The applicable threshold is the appropriate amount set out in the
 15 following table based on the development tier where the eligible business property is
 16 placed in service during the taxable year. If the taxpayer places business property in
 17 service in an urban progress zone or an agrarian growth zone, the applicable threshold is
 18 the one for a development tier one area. If the taxpayer places eligible business property
 19 in service at more than one establishment in a county during the taxable year, the
 20 threshold applies to the aggregate amount of eligible business property placed in service
 21 during the taxable year at all establishments in the county. If the taxpayer places eligible
 22 business property in service at establishments in different counties, the threshold applies
 23 separately to the aggregate amount of eligible business property placed in service in
 24 each county. If the taxpayer places eligible machinery and equipment in service at an
 25 establishment over the course of a two-year period, the applicable threshold for the
 26 second taxable year is reduced by the eligible investment amount for the previous
 27 taxable year.

<u>Area Development Tier</u>	<u>Threshold</u>
<u>Tier One</u>	\$ <u>-0-</u>
<u>Tier Two</u>	<u>1,000,000</u>
<u>Tier Three</u>	<u>2,000,000</u>

32 (d) Expiration. – As used in this subsection, the term 'disposed of' means
 33 disposed of, taken out of service, or moved out of State. If, in one of the four years in
 34 which the installment of a credit accrues, the business property with respect to which
 35 the credit was claimed is disposed of, the credit expires, and the taxpayer may not take
 36 any remaining installment of the credit for that business property unless the cost of that
 37 business property is offset in the same taxable year by the taxpayer's new investment in
 38 eligible business property placed in service in the same county, as provided in this
 39 subsection. If, during the taxable year, the taxpayer disposed of the business property
 40 for which installments remain, there has been a net reduction in the cost of all the
 41 taxpayer's eligible business property that are in service in the same county as the
 42 business property that was disposed of, and the amount of this reduction is greater than
 43 twenty percent (20%) of the cost of the business property that was disposed of, then the
 44 credit for the business property that was disposed of expires. If the amount of the net

1 reduction is equal to twenty percent (20%) or less of the cost of the business property
2 that was disposed of, or if there is no net reduction, then the credit does not expire. In
3 determining the amount of any net reduction during the taxable year, the cost of
4 business property the taxpayer placed in service during the taxable year and for which
5 the taxpayer claims a credit under Article 3A or Article 3B of this Chapter may not be
6 included in the cost of all the taxpayer's eligible business property that is in service. If in
7 a single taxable year business property with respect to two or more credits in the same
8 county are disposed of, the net reduction in the cost of all the taxpayer's eligible
9 business property that is in service in the same county is compared to the total cost of all
10 the business property for which credits expired in order to determine whether the
11 remaining installments of the credits are forfeited.

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

15 (e) Transferred Property. – If, in one of the four years in which the installment of
16 a credit accrues, the business property with respect to which the credit was claimed is
17 moved to a county in a higher-numbered development tier or to an urban progress zone
18 or an agrarian growth zone, the remaining installments of the credit are allowed only to
19 the extent they would have been allowed if the business property had been placed in
20 service initially in the area to which it was moved. If, in one of the four years in which
21 the installment of a credit accrues, the business property with respect to which a credit
22 was claimed is moved to a county in a lower-numbered development tier or an urban
23 progress zone or an agrarian growth zone, the remaining installments of the credit shall
24 be calculated as if the business property had been placed in service initially in the area
25 to which it was moved.

26 (f) Wage Standard. – For the purposes of this section, a taxpayer satisfies the
27 wage standard requirement of G.S. 105-129.83 only if the taxpayer satisfies the
28 requirement with respect to all of the jobs at the establishment, considered collectively,
29 with respect to which a credit is claimed.

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

33 **"§ 105-129.89. Credit for investment in real property.**

34 (a) Credit. – If a taxpayer that has purchased or leased real property in a
35 development tier one area begins to use the property in an eligible business during the
36 taxable year, the taxpayer is allowed a credit equal to thirty percent (30%) of the eligible
37 investment amount if all of the eligibility requirements of G.S. 105-129.83 and of
38 subsection (b) of this section are met. For the purposes of this section, property is
39 located in a development tier one area if the area the property is located in was a
40 development tier one area at the time the taxpayer made a written application for the
41 determination required under subsection (b) of this section. The eligible investment
42 amount is the lesser of (i) the cost of the property and (ii) the amount by which the cost
43 of all of the real property the taxpayer is using in this State in an eligible business on the
44 last day of the taxable year exceeds the cost of all of the real property the taxpayer was

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

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

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

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

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

1 (e) No Double Credit. – A taxpayer may not claim a credit under this section
2 with respect to real property for which a credit is claimed under G.S. 105-129.12 or
3 G.S. 105-129.12A."

4 **SECTION 1.2.** Part 2 of Article 10 of Chapter 143B is amended by adding
5 three new sections to read:

6 **"§ 143B-437.08. Development tier designation.**

7 (a) Tiers Defined. – A development tier one area is a county whose annual
8 ranking is one of the 40 highest in the State. A development tier two area is a county
9 whose annual ranking is one of the next 40 highest in the State. A development tier
10 three area is a county that is not in a lower-numbered development tier.

11 (b) Development Factor. – Each year, on or before November 30, the Secretary
12 of Commerce shall assign to each county in the State a development factor that is the
13 sum of the following:

14 (1) The county's rank in a ranking of counties by average rate of
15 unemployment from lowest to highest, for the most recent 12 months
16 for which data are available.

17 (2) The county's rank in a ranking of counties by median household
18 income from highest to lowest, for the most recent 12 months for
19 which data are available.

20 (3) The county's rank in a ranking of counties by percentage growth in
21 population from highest to lowest, for the most recent 36 months for
22 which data are available.

23 (4) The county's rank in a ranking of counties by adjusted assessed
24 property value per capita as published by the Department of Public
25 Instruction, from highest to lowest, for the most recent taxable year.

26 (c) Annual Ranking. – After computing the development factor as provided in
27 this section and making the adjustments required in this section, the Secretary of
28 Commerce shall rank all the counties within the State according to their development
29 factor from highest to lowest. The Secretary shall then identify all the areas of the State
30 by development tier and publish this information. A development tier designation is
31 effective only for the calendar year following the designation.

32 (d) Data. – In measuring rates of unemployment and median household income,
33 the Secretary shall use the latest available data published by a State or federal agency
34 generally recognized as having expertise concerning the data. In measuring population
35 and population growth, the Secretary shall use the most recent estimates of population
36 certified by the State Budget Officer. For the purposes of this section, population
37 statistics do not include people incarcerated in federal or State prisons.

38 (e) Adjustment for Certain Small Counties. – Regardless of the actual
39 development factor, any county that has a population of less than 12,000 shall
40 automatically be ranked one of the 40 highest counties, any county that has a population
41 of less than 50,000 shall automatically be ranked one of the 80 highest counties, and any
42 county that has a population of less than 50,000 and more than nineteen percent (19%)
43 of its population below the federal poverty level according to the most recent federal
44 decennial census shall automatically be ranked one of the 40 highest counties.

1 (f) Adjustment for Development Tier One Areas. – Regardless of the actual
2 development factor, a county designated as a development tier one area shall
3 automatically be ranked one of the 40 highest counties until it has been a development
4 tier one area for at least two consecutive years.

5 (g) Exception for Two-County Industrial Park. – An eligible two-county
6 industrial park has the lower development tier designation of the designations of the two
7 counties in which it is located if it meets all of the following conditions:

8 (1) It is located in two contiguous counties, one of which has a lower
9 development tier designation than the other.

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

12 (3) It is owned by the two counties or a joint agency of the counties, is
13 under contractual control of designated agencies working on behalf of
14 both counties, or is subject to a development agreement between both
15 counties and third-party owners.

16 (4) The county with the lower tier designation contributed at least the
17 lesser of one-half of the cost of developing the park or a proportion of
18 the cost of developing the park equal to the proportion of land in the
19 park located in the county with the lower tier designation.

20 (h) Exception for Certain Multijurisdictional Industrial Parks. – An eligible
21 industrial park created by interlocal agreement under G.S. 158-7.4 has the lowest
22 development tier designation of the designations of the counties in which it is located if
23 all of the following conditions are satisfied:

24 (1) The industrial park is located, at one or more sites, in three or more
25 contiguous counties.

26 (2) At least one of the counties in which the industrial park is located is a
27 development tier one area.

28 (3) The industrial park is owned by three or more units of local
29 government or a nonprofit corporation owned or controlled by three or
30 more units of local government.

31 (4) In each county in which the industrial park is located, the park has at
32 least 250 developable acres. For the purposes of this subdivision,
33 'developable acres' includes acreage that is owned directly by the
34 industrial park or its owners or that is the subject of a development
35 agreement between the industrial park or its owners and a third-party
36 owner.

37 (5) The total population of all of the counties in which the industrial park
38 is located is less than 200,000.

39 (6) In each county in which the industrial park is located, at least sixteen
40 and eight-tenths percent (16.8%) of the population was Medicaid
41 eligible for the 2003-2004 fiscal year based on 2003 population
42 estimates.

43 **§ 143B-437.09. Urban progress zone designation.**

1 (a) Urban Progress Zone Defined. – An urban progress zone is an area comprised
2 of one or more contiguous census tracts, census block groups, or both, or parts thereof,
3 in the most recent federal decennial census that meets all conditions in this subsection.

4 (1) All land within the zone is located in whole within the primary
5 corporate limits of a municipality with a population of more than
6 10,000 according to the most recent annual population estimates
7 certified by the State Budget Officer.

8 (2) Every census tract and census block group that composes part of the
9 zone meets at least one of the following conditions:

10 a. More than twenty percent (20%) of its population is below the
11 poverty level according to the most recent federal decennial
12 census.

13 b. At least fifty percent (50%) of the area of the portion that is
14 within the primary corporate limits of the municipality is zoned
15 as nonresidential and the census tract or census block group is
16 adjacent to a census tract or block group of which at least
17 twenty percent (20%) of the population is below the poverty
18 level.

19 (3) The area of the zone zoned as nonresidential does not exceed
20 thirty-five percent (35%) of the total area of the zone.

21 (b) Limitations. – No census tract or block group may be located in more than
22 one urban progress zone. The total area of all zones within a municipality may not
23 exceed fifteen percent (15%) of the total area of the municipality unless the smallest
24 possible area in the municipality satisfying all of the conditions of subsection (a) of this
25 section exceeds fifteen percent (15%) of the total area of the municipality. In the case of
26 a municipality where the smallest possible area in the municipality satisfying all of the
27 conditions of subsection (a) of this section exceeds fifteen percent (15%) of the total
28 area of the municipality, the smallest possible area in the municipality satisfying all of
29 the conditions of subsection (a) of this section may be designated as an urban poverty
30 zone.

31 (c) Designation. – Upon application of a local government, the Secretary of
32 Commerce shall make a written determination whether an area is an urban progress
33 zone that satisfies the conditions and limitations of subsections (a) and (b) of this
34 section. The application shall include all of the information listed in this subsection. A
35 determination under this section is effective until December 31 of the year following the
36 year in which the determination is made. The Department of Commerce shall publish
37 annually a list of all urban progress zones with a description of their boundaries.

38 (1) A map showing the census tracts and block groups that would
39 comprise the zone.

40 (2) A detailed description of the boundaries of the area that would
41 comprise the zone.

42 (3) A zoning map for the municipality with the proposed zone clearly
43 delineated upon it.

- 1 (4) A certification regarding the size of the proposed zone and the areas
2 within the proposed zone zoned as nonresidential.
- 3 (5) Detailed census information on the municipality and the proposed
4 zone.
- 5 (6) A resolution of the governing body of the municipality requesting the
6 designation of the area as an urban progress zone.
- 7 (7) Any other material required by the Secretary of Commerce.

8 (d) Parcel of Property Partially in Urban Progress Zone. – For the purposes of
9 this section, a parcel of property that is located partially within an urban progress zone
10 is considered entirely within the zone if all of the following conditions are satisfied:

- 11 (1) At least fifty percent (50%) of the parcel is located within the zone.
- 12 (2) The parcel was in existence and under common ownership prior to the
13 most recent federal decennial census.
- 14 (3) The parcel is a portion of land made up of one or more tracts or tax
15 parcels of land that is surrounded by a continuous perimeter boundary.

16 **"§ 143B-437.10. Agrarian growth zone designation.**

17 (a) Agrarian Growth Zone Defined. – An agrarian growth zone is an area
18 comprised of one or more contiguous census tracts, census block groups, or both, in the
19 most recent federal decennial census that meets all conditions in this subsection. A
20 county may have no more than one agrarian growth zone.

- 21 (1) All land within the zone is located in whole within a county that has no
22 municipality with a population in excess of 10,000.
- 23 (2) Every census tract and census block group that composes part of the
24 zone has more than twenty percent (20%) of its population below the
25 poverty level according to the most recent federal decennial census.
- 26 (3) The area of the zone less the smallest census tract included in the zone
27 does not exceed five percent (5%) of the total area of the county in
28 which the zone is located.

29 (b) Designation. – Upon application of a county, the Secretary of Commerce
30 shall make a written determination whether an area is an agrarian growth zone that
31 satisfies the conditions and limitations of subsection (a) of this section. The application
32 shall include all of the information listed in this subsection. A determination under this
33 section is effective until December 31 of the year following the year in which the
34 determination is made. The Department of Commerce shall publish annually a list of all
35 urban progress zones with a description of their boundaries.

- 36 (1) A map showing the census tracts and block groups that would
37 comprise the zone.
- 38 (2) A detailed description of the boundaries of the area that would
39 comprise the zone.
- 40 (3) A certification regarding the size of the proposed zone.
- 41 (4) Detailed census information on the county and the proposed zone.
- 42 (5) A resolution of the board of county commissioners requesting the
43 designation of the area as an agrarian growth zone.
- 44 (6) Any other material required by the Secretary of Commerce.

1 (c) Parcel of Property Partially in Agrarian Growth Zone. – For the purposes of
2 this section, a parcel of property that is located partially within an agrarian growth zone
3 is considered entirely within the zone if all of the following conditions are satisfied:

4 (1) At least fifty percent (50%) of the parcel is located within the zone.

5 (2) The parcel was in existence and under common ownership prior to the
6 most recent federal decennial census.

7 (3) The parcel is a portion of land made up of one or more tracts or tax
8 parcels of land that is surrounded by a continuous perimeter
9 boundary."

10 **SECTION 1.2A.** Notwithstanding the provisions of G.S. 143B-437.08, as
11 enacted by Section 1.2 of this act, for the 2007 taxable year, a development tier one area
12 is a county whose annual ranking is one of the 41 highest in the State.

13 **SECTION 1.3.** G.S. 105-129.2A reads as rewritten:

14 **"§ 105-129.2A. Sunset; studies.**

15 (a) Sunset. – This Article is repealed effective for business activities that occur
16 on or after January 1, ~~2008~~.2007.

17 (a1) Sunset for Interstate Air Couriers. – Notwithstanding subsection (a) of this
18 section, in the case of an interstate air courier that enters into a real estate lease on or
19 before January 1, 2006, with an airport authority that provides for the lease of at least
20 100 acres of real property with a lease term in excess of 15 years, this Article is repealed
21 effective for business activities that occur on or after January 1, 2010.

22 (a2) Sunset for Eligible Major Industries. – Notwithstanding subsection (a) of this
23 section, in the case of a taxpayer that qualifies as an eligible major industry on or before
24 January 1, 2006, this Article is repealed effective for business activities that occur on or
25 after January 1, 2010.

26 (a3) Sunset for Certain Taxpayers Located in Development Zones. –
27 Notwithstanding subsection (a) of this section, in the case of a taxpayer that satisfies all
28 of the conditions of this subsection, this Article is repealed effective for business
29 activities that occur on or after January 1, 2010.

30 (1) Before January 1, 2006, the taxpayer signs a letter of commitment with
31 the Department of Commerce describing a proposed new or expanding
32 project and specifying the amount to be invested in real property and
33 machinery and equipment, the number of new jobs to be created, and a
34 proposed timetable for making the investment and creating the jobs.

35 (2) Before January 1, 2006, the Secretary of Commerce makes a written
36 determination that the taxpayer is expected to purchase, lease, or
37 construct and place in service in an eligible business at a location
38 within a development zone within a three-year period at least ten
39 million dollars (\$10,000,000) of real property and machinery and
40 equipment and that the taxpayer will create at least 300 new jobs at the
41 location within a three-year period beginning when the property is first
42 placed in service in an eligible business.

1 (3) Before January 1, 2006, the taxpayer places at least four million
2 dollars (\$4,000,000) of real property and machinery and equipment in
3 service at the location and creates at least 20 new jobs at the location.

4 (a4) Sunset for Taxpayers That Sign a Letter of Commitment. – Notwithstanding
5 subsection (a) of this section, in the case of a taxpayer that signs a letter of commitment
6 with the Department of Commerce on or before December 31, 2006, stating the
7 taxpayer's intent to create new jobs or make new investments with respect to machinery
8 and equipment, central office or aircraft facility property, or substantial investments in
9 other real property at a specific site in this State, this Article is repealed effective for
10 business activities that occur on or after January 1, 2008. If a taxpayer elects to take any
11 credit under the provisions of this subsection for activities occurring in the 2007 taxable
12 year, the taxpayer may not take any credit under Article 3I of this Chapter with respect
13 to the same establishment for activities occurring in the 2007 taxable year.

14 (b) Equity Study. – The Department of Commerce shall study the effect of the
15 tax incentives provided in this Article on tax equity. This study shall include the
16 following:

17 (1) Reexamining the formula in G.S. 105-129.3(b) used to define
18 enterprise tiers, to include consideration of alternative measures for
19 more equitable treatment of counties in similar economic
20 circumstances.

21 (2) Considering whether the assignment of tiers and the applicable
22 thresholds are equitable for smaller counties, for example those under
23 50,000 in population.

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

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

29 (1) Study of the distribution of tax incentives across new and expanding
30 industries.

31 (2) Examination of data on economic recruitment for the period from 1994
32 through the most recent year for which data are available by county, by
33 industry type, by size of investment, and by number of jobs, and other
34 relevant information to determine the pattern of business locations and
35 expansions before and after the enactment of the William S. Lee Act
36 incentives.

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

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

40 (d) Report. – The Department of Commerce shall report the results of these
41 studies and its recommendations to the General Assembly biennially with the first report
42 due by April 1, 2001."

43 **SECTION 1.4.** The Department of Commerce shall, in consultation with the
44 North Carolina Rural Center, Inc. and lower-tiered counties, develop additional

1 strategies to enhance economic growth and development in economically distressed
 2 areas. The Department shall report on the results of this study to the Joint Legislation
 3 Economic Development Oversight Committee by January 1, 2007. For the purposes of
 4 this section, "economically distressed areas" means enterprise tier one areas as defined
 5 in G.S. 105-129.3.

6 **SECTION 1.5.** Section 1.1 of this part is effective for taxable years
 7 beginning on or after January 1, 2007. The remainder of this part is effective when it
 8 becomes law.

9
 10 **PART II. CONFORMING CHANGES**

11 **SECTION 2.1.** G.S. 105-129.55(a) reads as rewritten:

12 "(a) **Qualified North Carolina Research Expenses.** – A taxpayer that has qualified
 13 North Carolina research expenses for the taxable year is allowed a credit equal to a
 14 percentage of the expenses, determined as provided in this subsection. Only one credit
 15 is allowed under this subsection with respect to the same expenses. If more than one
 16 subdivision of this subsection applies to the same expenses, then the credit is equal to
 17 the higher percentage, not both percentages combined. If part of the taxpayer's qualified
 18 North Carolina research expenses qualifies under subdivision (2) of this subsection and
 19 the remainder qualifies under subdivision (3) of this subsection, the applicable
 20 percentages apply separately to each part of the expenses.

- 21 (1) **Small business.** – If the taxpayer was a small business as of the last
 22 day of the taxable year, the applicable percentage is three percent
 23 (3%).
- 24 (2) **Low-tier research.** – For expenses with respect to research performed
 25 in ~~an enterprise tier one, two, or three~~ a development tier one area, the
 26 applicable percentage is three percent (3%).
- 27 (3) **Other research.** – For expenses not covered under subdivision (1) or
 28 (2) of this subsection, the percentages provided in the table below
 29 apply to the taxpayer's qualified North Carolina research expenses
 30 during the taxable year at the following levels:

Expenses Over	Up To	Rate
-0-	\$50 million	1%
\$50 million	\$200 million	2%
\$200 million	–	3% "

35 **SECTION 2.2.** G.S. 105-164.14(h) reads as rewritten:

36 "(h) **Low Enterprise or Development Tier Machinery.** – Eligible taxpayers are
 37 allowed an annual refund of sales and use taxes paid under this Article as provided in
 38 this subsection.

- 39 (1) **Refunds.** – An eligible person is allowed an annual refund of sales and
 40 use taxes paid by it under this Article at the general rate of tax on
 41 eligible machinery and equipment it purchases for use in an enterprise
 42 tier one area or an enterprise tier two area, as defined in
 43 G.S. 405-129.3, 105-129.3 or a development tier one area, as defined in
 44 G.S. 143B-437.08. Liability incurred indirectly by the taxpayer for

1 sales and use taxes on these items is considered tax paid by the
 2 taxpayer. A request for a refund must be in writing and must include
 3 any information and documentation required by the Secretary. A
 4 request for a refund is due within six months after the end of the State's
 5 fiscal year. Refunds applied for after the due date are barred.

6 (2) Eligibility. – A person is eligible for the refund provided in this
 7 subsection if it is engaged primarily in one of the businesses listed in
 8 G.S. 105-129.4(a) in an enterprise tier one area or an enterprise tier
 9 two area, as defined in ~~G.S. 105-129.3~~105-129.3 or if it is engaged
 10 primarily in one of the businesses listed in G.S. 105-129.83(a) in a
 11 development tier one area, as defined in G.S. 143B-437.08.

12 (3) Machinery and equipment. – For the purpose of this subsection, the
 13 term 'machinery and equipment' means engines, machinery,
 14 equipment, tools, and implements used or designed to be used in one
 15 of the businesses listed in ~~G.S. 105-129.4(a)~~105-129.4(a) or
 16 G.S. 105-129.83(a). Machinery and equipment are eligible for the
 17 refund provided in this subsection if the taxpayer places them in
 18 service in an enterprise tier one area or an enterprise tier two area, as
 19 defined in ~~G.S. 105-129.3~~105-129.3, or a development tier one area,
 20 as defined in G.S. 143B-437.08, capitalizes them for tax purposes
 21 under the Code, and does not lease them to another party."

22 **SECTION 2.3.** G.S. 105-164.14(j)(2) reads as rewritten:

23 "(j) Certain Industrial Facilities. – The owner of an eligible facility is allowed an
 24 annual refund of sales and use taxes as provided in this subsection.

25 ...

26 (2) Eligibility. – A facility is eligible under this subsection if it meets both
 27 of the following conditions:

28 a. It is primarily engaged in one of the industries listed in this
 29 subsection.

30 b. The Secretary of Commerce has certified that the owner of the
 31 facility will invest at least the required amount of private funds
 32 to construct the facility in this State. For the purpose of this
 33 subsection, costs of construction may include costs of acquiring
 34 and improving land for the facility and costs of equipment for
 35 the facility. If the facility is located in ~~an enterprise tier one,~~
 36 ~~two, or three~~ a development tier one area as defined in
 37 ~~G.S. 105-129.3~~G.S. 143B-437.08 the required amount is fifty
 38 million dollars (\$50,000,000). For all other facilities, the
 39 required amount is one hundred million dollars (\$100,000,000).
 40 In the case of a computer manufacturing facility, the owner may
 41 invest these funds either directly or indirectly through a related
 42 entity or strategic partner as those terms are defined in
 43 G.S. 105-129.61. In the case of a computer manufacturing

1 facility, the term 'facility' has the same meaning as under
2 G.S. 105-129.61."

3 **SECTION 2.4.** G.S. 143B-437.01 reads as rewritten:

4 **"§ 143B-437.01. Industrial Development Fund.**

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

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

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

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

34 (3) There shall be no local match requirement if the project is located in ~~an~~
35 enterprise tier one area as defined in G.S. 105-129.3 ~~a county that has~~
36 one of the 25 highest rankings under G.S. 143B-437.08 after the
37 adjustments of that section are applied.

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

42 (5) No project subject to the Environmental Policy Act, Article 1 of
43 Chapter 113A of the General Statutes, shall be funded unless the
44 Secretary of Commerce finds that the proposed project will not have a

- 1 significant adverse effect on the environment. The Secretary of
2 Commerce shall not make this finding unless the Secretary has first
3 received a certification from the Department of Environment and
4 Natural Resources that concludes, after consideration of avoidance and
5 mitigation measures, that the proposed project will not have a
6 significant adverse effect on the environment.
- 7 (6) The funds shall not be used for any nonmanufacturing project that does
8 not meet the wage standard set out in G.S. 105-129.4(b).
- 9 (a1) Definitions. – The following definitions apply in this section:
- 10 (1) ~~Air courier services. – A person is engaged in the air courier services~~
11 ~~business if the person's primary business is furnishing air delivery of~~
12 ~~individually addressed letters and packages, except by the United~~
13 ~~States Postal Service. Defined in G.S. 105-129.81.~~
- 14 (2) ~~Central administrative office. – Defined in the North American~~
15 ~~Industry Classification System adopted by the United States Office of~~
16 ~~Management and Budget.~~
- 17 (2a) Company headquarters. – Defined in G.S. 105-129.81.
- 18 (3) ~~Data processing. – Defined in the North American Industry~~
19 ~~Classification System adopted by the United States Office of~~
20 ~~Management and Budget.~~
- 21 (4) Economically distressed county. – A county that has one of the 65
22 highest rankings under G.S. 143B-437.08 after the adjustments of that
23 section are applied, designated as an enterprise tier one, two, or three
24 area pursuant to G.S. 105-129.3.
- 25 (5) Eligible industry. – A ~~central administrative office~~company
26 headquarters or a person engaged in the business of air courier
27 services, ~~data processing, information technology and services,~~
28 manufacturing, or warehousing and wholesale trade.
- 29 (6) Information technology and services. – Defined in G.S. 105-129.81.
- 30 (7) Major economic dislocation. – The actual or imminent loss of 500 or
31 more manufacturing jobs in the county or of a number of
32 manufacturing jobs equal to at least ten percent (10%) of the existing
33 manufacturing workforce in the county.
- 34 (8) Manufacturing. – Defined in ~~the North American Industry~~
35 ~~Classification System adopted by the United States Office of Budget~~
36 ~~and Management. G.S. 105-129.81.~~
- 37 (9) Reserved.
- 38 (10) ~~Warehousing and wholesale trade. – Defined in the North American~~
39 ~~Industry Classification System adopted by the United States Office of~~
40 ~~Management and Budget. Warehousing. – Defined in G.S. 105-129.81.~~
- 41 (11) Wholesale trade. – Defined in G.S. 105-129.81.
- 42 (b) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.5.
- 43 (b1) Utility Account. – There is created within the Industrial Development Fund a
44 special account to be known as the Utility Account to provide funds to assist the local

1 government units of ~~enterprise tier one, two, and three areas, as defined in~~
2 ~~G.S. 105-129.3~~, the counties that have one of the 65 highest rankings under
3 G.S. 143B-437.08 after the adjustments of that section are applied in creating jobs in
4 eligible industries. The Department of Commerce shall adopt rules providing for the
5 administration of the program. Except as otherwise provided in this subsection, those
6 rules shall be consistent with the rules adopted with respect to the Industrial
7 Development Fund. The rules shall provide that the funds in the Utility Account may be
8 used only for construction of or improvements to new or existing water, sewer, gas,
9 telecommunications, high-speed broadband, electrical utility distribution lines or
10 equipment, or transportation infrastructure for existing or new or proposed industrial
11 buildings to be used for eligible industrial operations. To be eligible for funding, the
12 water, sewer, gas, telecommunications, high-speed broadband, electrical utility lines or
13 facilities, or transportation infrastructure 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 the specific industrial
15 activity. There shall be no maximum funding amount per new job to be created or per
16 project.

17 (c) Reports. – The Department of Commerce shall report annually to the General
18 Assembly concerning the applications made to the fund and the payments made from
19 the fund and the impact of the payments on job creation in the State. The Department of
20 Commerce shall also report quarterly to the Joint Legislative Commission on
21 Governmental Operations and the Fiscal Research Division on the use of the moneys in
22 the fund, including information regarding to whom payments were made, in what
23 amounts, and for what purposes.

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

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

32 **SECTION 2.5.** G.S. 143B-437.04 reads as rewritten:

33 **"§ 143B-437.04. Community development block grants.**

34 (a) The Department of Commerce shall adopt guidelines for the awarding of
35 Community Development Block Grants to ensure that:

36 (1) No local match is required for grants awarded for projects located in
37 ~~enterprise tier one areas as defined in G.S. 105-129.3~~ counties that
38 have one of the 25 highest rankings under G.S. 143B-437.08 after the
39 adjustments of that section are applied.

40 (2) To the extent practicable, priority consideration for grants is given to
41 projects located in ~~enterprise tier one areas as defined in~~
42 ~~G.S. 105-129.3~~ counties that have one of the 25 highest rankings under
43 G.S. 143B-437.08 after the adjustments of that section are applied or

1 in ~~development~~ urban progress zones that have met the conditions of
 2 subsection (b) of this section.

3 (b) In order to qualify for the benefits of this section, after an area is designated a
 4 ~~developmentan~~ urban progress zone under G.S. ~~105-129.3A,143B-437.09,~~ the
 5 governing body of the city in which the zone is located must adopt a strategy to improve
 6 the zone and establish a ~~developmentan~~ urban progress zone committee to oversee the
 7 strategy. The strategy and the committee must conform with requirements established
 8 by the Secretary of Commerce."

9 **SECTION 2.6.** G.S. 143B-437.51(5a) is recodified as G.S. 143B-437.51(4a)
 10 and reads as rewritten:

11 "(4a) ~~Enterprise-Development~~ tier. – The classification assigned to an area
 12 pursuant to G.S. ~~105-129.3,143B-437.08.~~"

13 **SECTION 2.7.** G.S. 143B-437.53(a) reads as rewritten:

14 "(a) Minimum Number of Eligible Positions. – A business may apply to the
 15 Committee for a grant for any project that creates the minimum number of eligible
 16 positions as set out in the table below. If the project will be located in more than one
 17 ~~enterprise-development~~ tier area, the location with the highest ~~enterprise-development~~
 18 tier area designation determines the minimum number of eligible positions that must be
 19 created.

<u>Enterprise-Development</u> Tier Area	Number of Eligible Positions
Tier One	10
Tier Two	10 <u>20</u>
Tier Three	10 <u>20</u>
Tier Four	20
Tier Five	20 "

26 **SECTION 2.8.** G.S. 143B-437.55(c)(3) reads as rewritten:

27 "(c) Annual Reports. – The Committee shall publish a report on the Job
 28 Development Investment Grant Program on or before April 30 of each year. The report
 29 shall include the following:

30 ...
 31 (3) The number and ~~enterprise-development~~ tier area of eligible positions
 32 created by projects with respect to which grants were awarded."

33 **SECTION 2.9.(a)** If House Bill 2744, 2005 General Assembly, does not
 34 become law, then G.S. 143B-437.56(d) reads as rewritten:

35 "(d) The percentage established in the agreement shall be reduced by
 36 ~~one-fourth~~fifteen percent (15%) for any eligible position that is located in a
 37 development tier two area and twenty-five percent (25%) for any eligible position that is
 38 located in an ~~enterprise-a~~ development tier ~~four or five~~three area."

39 **SECTION 2.9.(b)** If House Bill 2744, 2005 General Assembly, becomes
 40 law, then G.S. 143B-437.56(d), as amended by that act, reads as rewritten:

41 "(d) For any eligible position that is located in an ~~enterprise-tier four or five~~
 42 development tier three area, seventy-five percent (75%) of the annual grant approved
 43 for disbursement shall be payable to the business, and twenty-five percent (25%) shall
 44 be payable to the Utility Account pursuant to G.S. 143B-437.61. For any eligible

1 position that is located in a development tier two area, eighty-five percent (85%) of the
2 annual grant approved for disbursement shall be payable to the business, and fifteen
3 percent (15%) shall be payable to the Utility Account pursuant to G.S. 143B-437.61. A
4 position is located in the ~~enterprise-development~~ tier area that has been assigned to the
5 county in which the project is located at the time the application is filed with the
6 Committee."

7 **SECTION 2.10.** G.S. 158-7.3(a) reads as rewritten:

8 "(a) Definitions. – The following definitions apply in this section:

9 (1) Development project. – A capital project that includes capital
10 expenditures by both private persons and one or more units of local
11 government and that increases net employment opportunities for
12 residents of the development district or within a two-mile radius of the
13 project, whichever is larger, and increases the local government tax
14 base.

15 If the district in which such a project will occur is outside a city's
16 central business district (as that district is defined by resolution of the
17 city council, which definition is binding and conclusive), then, of the
18 private development forecast for a development project by the
19 development financing plan for the district in which the project will
20 occur, a maximum of twenty percent (20%) of the plan's estimated
21 square footage of floor space may be proposed for use in retail sales,
22 hotels, banking, and financial services offered directly to consumers,
23 and other commercial uses other than office space. The twenty percent
24 (20%) limitation in the preceding sentence does not apply to
25 development financing districts located in ~~an enterprise-a development~~
26 ~~tier one area, as defined in G.S. 405-129.3, 143B-437.08~~ and created
27 primarily for tourism-related economic development, such as
28 developments featuring facilities for exhibitions, athletic and cultural
29 events, show and public gatherings, racing facilities, parks and
30 recreation facilities, art galleries, museums, and art centers.

31 (2) Publish. – Insertion in a newspaper qualified under G.S. 1-597 to
32 publish legal advertisements in the county or counties in which the unit
33 is located.

34 (3) Unit or unit of local government. – A county, city, town, or
35 incorporated village."

36 **SECTION 2.11.** G.S. 19A-64(c) reads as rewritten:

37 "(c) Distribution. – The Department shall make payments from the Spay/Neuter
38 Account to eligible counties and cities who have made timely application for
39 reimbursement within 30 days of the closing date for receipt of applications for that
40 quarter. In the event that total requests for reimbursement exceed the amounts available
41 in the Spay/Neuter Account for distribution, the monies available will be distributed as
42 follows:

43 (1) Fifty percent (50%) of the monies available in the Spay/Neuter
44 Account shall be reserved for reimbursement for eligible applicants

1 within ~~enterprise tier one, two, and three~~ development tier one areas as
2 defined in ~~G.S. 105-129.3, 143B-437.08~~. The remaining fifty percent
3 (50%) of the funds shall be used to fund reimbursement requests from
4 eligible applicants in ~~enterprise tier four and five~~ development tier two
5 and three areas as defined in ~~G.S. 105-129.3, 143B-437.08~~.

6 (2) Among the eligible counties and cities in ~~enterprise tier one, two, and~~
7 ~~three~~ development tier one areas, reimbursement shall be made to each
8 eligible county or city in proportion to the number of dogs and cats
9 that have received rabies vaccinations during the preceding fiscal year
10 in that county or city as compared to the number of dogs and cats that
11 have received rabies vaccinations during the preceding fiscal year by
12 all of the eligible applicants in ~~enterprise tier one, two, or~~
13 ~~three~~ development tier one areas.

14 (3) Among the eligible counties and cities in ~~enterprise tier four and~~
15 ~~five~~ development tier two and three areas, reimbursement shall be
16 made to each eligible county or city in proportion to the number of
17 dogs and cats that have received rabies vaccinations during the
18 preceding fiscal year in that county or city as compared to the number
19 of dogs and cats that have received rabies vaccinations during the
20 preceding fiscal year by all of the eligible applicants in ~~enterprise tier~~
21 ~~four and five~~ development tier two and three areas.

22 (4) Should funds remain available from the fifty percent (50%) of the
23 Spay/Neuter Account designated for ~~enterprise tier one, two, or~~
24 ~~three~~ development tier one areas after reimbursement of all claims by
25 eligible applicants in those areas, the remaining funds shall be made
26 available to reimburse eligible applicants in ~~enterprise tier four and~~
27 ~~five~~ development tier two and three areas."

28 **SECTION 2.12.** G.S. 106-744(c2) reads as rewritten:

29 "(c2) A county that is ~~an enterprise tier four county or an enterprise tier five~~
30 ~~development tier two or three~~ county, as these tiers are defined in
31 ~~G.S. 105-129.3(a), G.S. 143B-437.08~~, and that has prepared a countywide farmland
32 protection plan shall match fifteen percent (15%) of the Trust Fund monies it receives
33 with county funds. A county that has not prepared a countywide farmland protection
34 plan shall match thirty percent (30%) of the Trust Fund monies it receives with county
35 funds. A county that is ~~an enterprise tier one county, an enterprise tier two county, or an~~
36 ~~enterprise tier three~~ county, ~~as these counties area~~ development tier one county, as
37 defined in ~~G.S. 105-129.3(a), G.S. 143B-437.08~~, and that has prepared a countywide
38 farmland protection plan shall not be required to match any of the Trust Fund monies it
39 receives with county funds."

40 **SECTION 2.13.** G.S. 113A-252 reads as rewritten:

41 "**§ 113A-252. Definitions.**

42 The following definitions apply in this Article:

43 (1) Council. – The advisory council for the Clean Water Management
44 Trust Fund.

- 1 (2) Economically distressed local government unit. – An economically
2 distressed county, as defined in ~~G.S. 105-129.3~~, G.S. 143B-437.01, or a
3 local government unit located in that county.
- 4 (3) Fund. – The Clean Water Management Trust Fund created pursuant to
5 this Article.
- 6 (4) Land. – Real property and any interest in, easement in, or restriction on
7 real property.
- 8 (4a) Local government unit. – Defined in G.S. 159G-20.
- 9 (4b) Stormwater quality project. – Defined in G.S. 159G-20.
- 10 (5) Trustees. – The trustees of the Clean Water Management Trust Fund.
- 11 (6) Wastewater collection system. – Defined in G.S. 159G-20.
- 12 (7) Wastewater treatment works. – Defined in G.S. 159G-20."

13 **SECTION 2.14.** G.S. 146-22.3(d) reads as rewritten:

14 "(d) Application. – This section applies only to land acquired in counties
15 designated as ~~an enterprise tier one or enterprise tier two~~ a development tier one area
16 under G.S. ~~105-129.3.143B-437.08.~~"

17 **SECTION 2.15.** G.S. 146-22.4(c) reads as rewritten:

18 "(c) Application. – This section applies only to land acquired in counties
19 designated as ~~an enterprise tier one or enterprise tier two~~ a development tier one area
20 under G.S. ~~105-129.3.143B-437.08.~~"

21 **SECTION 2.16.** G.S. 146-22.5(b) reads as rewritten:

22 "(b) Application. – This section applies only to land acquired in counties
23 designated as ~~an enterprise tier one or enterprise tier two~~ a development tier one area
24 under G.S. ~~105-129.3.143B-437.08.~~"

25 **SECTION 2.17.** G.S. 153A-15.1(e) reads as rewritten:

26 "(e) Application. – This section applies only to land acquired in counties
27 designated as ~~an enterprise tier one or enterprise tier two~~ a development tier one area
28 under G.S. ~~105-129.3.143B-437.08.~~"

29 **SECTION 2.18.** G.S. 160A-425.1(c) reads as rewritten:

30 "(c) If an inspector declares a residential building or nonresidential building or
31 structure to be unsafe under subsection (b) of this section, the inspector must affix a
32 notice of the unsafe character of the structure to a conspicuous place on the exterior wall
33 of the building. For the purposes of this section, the term "community development
34 target area" means an area that has characteristics of ~~a development zone under~~
35 ~~G.S. 105-129.3A~~, an urban progress zone under G.S. 143B-437.09, a 'nonresidential
36 redevelopment area' under G.S. 160A-503(10), or an area with similar characteristics
37 designated by the city council as being in special need of revitalization for the benefit
38 and welfare of its citizens."

39 **SECTION 2.19.** G.S. 160A-426(c) reads as rewritten:

40 "(c) If an inspector declares a nonresidential building or structure to be unsafe
41 under subsection (b) of this section, the inspector must affix a notice of the unsafe
42 character of the structure to a conspicuous place on the exterior wall of the building. For
43 the purposes of this section, the term "community development target area" means an
44 area that has characteristics of ~~a development zone under G.S. 105-129.3A~~, an urban

1 progress zone under G.S. 143B-437.09, a 'nonresidential redevelopment area' under
2 G.S. 160A-503(10), or an area with similar characteristics designated by the city council
3 as being in special need of revitalization for the benefit and welfare of its citizens."

4 **SECTION 2.20.** G.S. 105-129.51(a) reads as rewritten:

5 "(a) A taxpayer is eligible for the credit allowed in this Article if it satisfies the
6 requirements of G.S. ~~105-129.4(b), (b2), (b3), and (b4)~~105-129.83(c), (d), (e), and (f)
7 relating to wage standard, health insurance, environmental impact, and safety and health
8 programs, respectively."

9 **SECTION 2.21.** G.S. 105-259(b) reads as rewritten:

10 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State
11 who has access to tax information in the course of service to or employment by the State
12 may not disclose the information to any other person unless the disclosure is made for
13 one of the following purposes:

14 ...

15 (24) To furnish the Department of Commerce and the Employment Security
16 Commission a copy of the qualifying information required in
17 G.S. ~~105-129.7(b)~~105-129.7(b) or G.S. 105-129.86(b).

18 ...

19 (27) To publish the information required under G.S. 105-129.6,
20 105-129.19, 105-129.26, 105-129.38, 105-129.44, 105-129.65A,
21 105-129.85, 105-130.41, 105-130.45, 105-151.22, and 105-164.14.

22 ...

23 (36) To furnish the Department of Commerce with the information needed
24 to complete the studies required under G.S. 105-129.2A and
25 G.S. 105-129.82."

26 **SECTION 2.22.** G.S. 105-129.70, as enacted by S.L. 2006-40, reads as
27 rewritten:

28 "§ **105-129.70. Definitions.**

29 The following definitions apply in this Article:

- 30 (1) Certified historic structure. – Defined in section 47 of the Code.
31 (2) Certified rehabilitation. – Defined in G.S. 105-129.36.
32 (3) Cost certification. – The certification obtained by the State Historic
33 Preservation Officer from the taxpayer of the amount of the qualified
34 rehabilitation expenditures or the rehabilitation expenses incurred with
35 respect to an eligible site.
36 (3a) Development tier area. – Defined in G.S. 143B-437.08.
37 (4) Eligibility certification. – The certification obtained from the State
38 Historic Preservation Officer that the applicable facility comprises an
39 eligible site and that the rehabilitation is a certified rehabilitation.
40 (5) Eligible site. – A site located in this State that satisfies all of the
41 following conditions:
42 a. It was used as a manufacturing facility or for purposes ancillary
43 to manufacturing, as a warehouse for selling agricultural
44 products, or as a public or private utility.

- b. It is a certified historic structure or a State-certified historic structure.
- c. It has been at least eighty percent (80%) vacant for a period of at least two years immediately preceding the date the eligibility certification is made.
- d. The cost certification documents that the qualified rehabilitation expenditures for a site for which a taxpayer is allowed a credit under section 47 of the Code or the rehabilitation expenses for a site for which the taxpayer is not allowed a credit under section 47 of the Code exceed three million dollars (\$3,000,000) for the site as a whole.

(6) ~~Enterprise tier area. — Defined in G.S. 105-129.3.~~

(7) Pass-through entity. – Defined in G.S. 105-228.90.

(8) Qualified rehabilitation expenditures. – Defined in section 47 of the Code.

(9) Rehabilitation expenses. – Defined in G.S. 105-129.36.

(10) State-certified historic structure. – Defined in G.S. 105-129.36.

(11) State Historic Preservation Officer. – Defined in G.S. 105-129.36."

SECTION 2.23. G.S. 105-129.171(a), as enacted by S.L. 2006-40, reads as rewritten:

"(a) Credit. – A taxpayer who is allowed a credit under section 47 of the Code for making qualified rehabilitation expenditures with respect to an eligible site is allowed a credit equal to a percentage of the expenditures that qualify for the federal credit. The credit may be claimed in the year in which the eligible site is placed into service. When the eligible site is placed into service in two or more phases in different years, the amount of credit that may be claimed in a year is the amount based on the qualified rehabilitation expenditures associated with the phase placed into service during that year. In order to be eligible for a credit allowed by this Article, the taxpayer must provide to the Secretary a copy of the eligibility certification and the cost certification. The amount of the credit is as follows:

(1) For an eligible site located in ~~an enterprise tier one, two, or three~~ development tier one or two area, determined as of the date of certification, the amount of the credit is equal to forty percent (40%) of the qualified rehabilitation expenditures.

(2) For an eligible site located in ~~an enterprise tier four or five~~ development tier three area, determined as of the date of certification, the amount of the credit is equal to thirty percent (30%) of the qualified rehabilitation expenditures."

SECTION 2.24. G.S. 105-129.72(a), as enacted by S.L. 2006-40, reads as rewritten:

"(a) Credit. – A taxpayer who is not allowed a federal income tax credit under section 47 of the Code and who makes rehabilitation expenses with respect to an eligible site is allowed a credit equal to a percentage of the rehabilitation expenses. The entire credit may not be taken for the taxable year in which the property is placed in

1 service, but must be taken in five equal installments beginning with the taxable year in
2 which the property is placed in service. When the eligible site is placed into service in
3 two or more phases in different years, the amount of credit that may be claimed in a
4 year is the amount based on the rehabilitation expenses associated with the phase placed
5 into service during that year. In order to be eligible for a credit allowed by this Article,
6 the taxpayer must provide to the Secretary a copy of the eligibility certification and the
7 cost certification. For an eligible site located in ~~an enterprise tier one, two, or three~~
8 development tier one or two area, determined as of the date of certification, the amount
9 of the credit is equal to forty percent (40%) of the rehabilitation expenses. No credit is
10 allowed for a site located in ~~an enterprise tier four or five~~ development tier three area."

11 **SECTION 2.25.(a)** If House Bill 2744, 2005 General Assembly, does not
12 become law, then G.S. 105-164.3(8e), as enacted by S.L. 2006-66, reads as rewritten:

13 "(8e) Eligible Internet data center. – A facility that satisfies each of the
14 following conditions:

- 15 a. The facility is used primarily or is to be used primarily by a
16 business engaged in ~~Internet~~ "Internet service providers and
17 Web search portals" industry 51811, as defined by
18 NAICS.
- 19 b. The facility is comprised of a structure or series of structures
20 located or to be located on a single parcel of land or on
21 contiguous parcels of land that are commonly owned or owned
22 by affiliation with the operator of that facility.
- 23 c. The facility is located or to be located in a county that was
24 designated, at the time of application for the written
25 determination required under sub-subdivision d. of this
26 subdivision, either an enterprise tier one, two, or three or a
27 development tier one or two area pursuant to
28 ~~G.S. 105-129.3~~, G.S. 105-129.3 or G.S. 143B-437.08, regardless
29 of any subsequent change in county enterprise or development
30 tier status.
- 31 d. The Secretary of Commerce has made a written determination
32 that at least two hundred fifty million dollars (\$250,000,000) in
33 private funds has been or will be invested in real property or
34 eligible business property, or a combination of both, at the
35 facility within five years after the commencement of
36 construction of the facility."

37 **SECTION 2.25.(a1)** If House Bill 2744, 2005 General Assembly, does
38 become law, then G.S. 105-164.3(8e), as enacted by S.L. 2006-66 and as amended by
39 that act, reads as rewritten:

40 "(8e) Eligible Internet data center. – A facility that satisfies each of the
41 following conditions:

- 42 a. The facility is used primarily or is to be used primarily by a
43 business engaged in "Internet service providers and Web search
44 portals" industry 51811, as defined by NAICS.

- 1 b. The facility is comprised of a structure or series of structures
- 2 located or to be located on a single parcel of land or on
- 3 contiguous parcels of land that are commonly owned or owned
- 4 by affiliation with the operator of that facility.
- 5 c. The facility is located or to be located in a county that was
- 6 designated, at the time of application for the written
- 7 determination required under sub-subdivision d. of this
- 8 subdivision, either an enterprise tier one, two, or three area or a
- 9 development tier one or two area pursuant to ~~G.S. 105-129.3,~~
- 10 G.S. 105-129.3 or G.S. 143B-437.08, regardless of any
- 11 subsequent change in county enterprise or development tier
- 12 status.
- 13 d. The Secretary of Commerce has made a written determination
- 14 that at least two hundred fifty million dollars (\$250,000,000) in
- 15 private funds has been or will be invested in real property or
- 16 eligible business property, or a combination of both, at the
- 17 facility within five years after the commencement of
- 18 construction of the facility."

19 **SECTION 2.25.(b)** G.S. 105-164.13(55), as enacted by S.L. 2006-66, reads
 20 as rewritten:

21 "(55) Sales of electricity for use at an eligible Internet data center and
 22 eligible business property to be located and used at an eligible Internet
 23 data center. As used in this subdivision, 'eligible business property' is
 24 property that is capitalized for tax purposes under the Code and is used
 25 either:

- 26 a. For the provision of Internet service or Web search portal
- 27 services as contemplated by G.S. 105-164.3(8e)a., including
- 28 equipment cooling systems for managing the performance of
- 29 the property.
- 30 b. For the generation, transformation, transmission, distribution, or
- 31 management of electricity, including exterior substations and
- 32 other business personal property used for these purposes.
- 33 c. To provide related computer engineering or computer science
- 34 research.

35 If the level of investment required by G.S. 105-164.3(8e)d. is not
 36 timely made, then the exemption provided under this subdivision is
 37 forfeited. If the level of investment required by G.S. 105-164.3(8e)d. is
 38 timely made but any specific eligible business property is not located
 39 and used at an eligible Internet data center, then the exemption
 40 provided for ~~the such~~ eligible business property under this subdivision
 41 is forfeited. If the level of investment required by G.S. 105-164.3(8e)d.
 42 is timely made but any portion of the electricity is not used at an
 43 eligible Internet data center, then the exemption provided for ~~the such~~
 44 electricity under this subdivision is forfeited. A taxpayer that forfeits

1 an exemption under this subdivision is liable for all past taxes avoided
2 as a result of the forfeited exemption, computed from the date the taxes
3 would have been due if the exemption had not been allowed, plus
4 interest at the rate established under G.S. 105-241.1(i). If the forfeiture
5 is triggered due to the lack of a timely investment required by
6 G.S. 105-164.3(8e)d., then interest is computed from the date the taxes
7 would have been due if the exemption had not been allowed. For all
8 other forfeitures, interest is computed from the time as of which the
9 eligible business property or electricity was put to a disqualifying use.
10 The past taxes and interest are due 30 days after the date the exemption
11 is forfeited. A taxpayer that fails to pay the past taxes and interest by
12 the due date is subject to the provisions of G.S. 105-236."

13 **SECTION 2.25.(c)** Section 24.17(c) of S.L. 2006-66 reads as rewritten:

14 "**SECTION 24.17.(c)** ~~This Subsection (b) of this section~~ becomes effective October
15 1, 2006, and applies to sales made on or after that date. The remainder of this section is
16 effective when it becomes law."

17 **SECTION 2.26.** G.S. 105-164.3(23a), as enacted by S.L. 2006-66, reads as
18 rewritten:

19 "(23a) NAICS. – ~~The North American Industry Classification System adopted~~
20 ~~by the United States Office of Management and Budget as of~~
21 ~~December 31, 2002.~~ Defined in G.S. 105-129.81."

22 **SECTION 2.27.** Section 2.25(c) of this part and the changes made to
23 G.S. 105-164.3(8e)a. by Section 2.25(a) of this part are effective when they become
24 law. Subsection 2.25(b) of this part becomes effective October 1, 2006. The remainder
25 of this part becomes effective January 1, 2007.

26 **PART III. EFFECTIVE DATES**

27 **SECTION 3.** Except as otherwise provided, this act is effective when it
28 becomes law.
29