

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1880\*

Short Title: Economic Incentives Alignment & Changes. (Public)

Sponsors: Representatives McComas; Brubaker, Carney, Fisher, Gibson, Harrison, Hill, Howard, Hughes, Luebke, McGee, Wainwright, Weiss, Womble, and Wray.

Referred to: Commerce, Small Business, and Entrepreneurship, if favorable, Finance.

May 20, 2010

1 A BILL TO BE ENTITLED  
2 AN ACT TO INCREASE UNIFORMITY IN SUNSET AND REPORTING  
3 REQUIREMENTS OF ECONOMIC INCENTIVES TOOLS AND TO ELIMINATE  
4 NONUTILIZED ECONOMIC INCENTIVES.

5 The General Assembly of North Carolina enacts:

6 **PART I: ECONOMIC INCENTIVES REPORTING AND SUNSETS**

7 **SECTION 1.1.** G.S. 105-129.6(b) reads as rewritten:

8 "(b) ~~Reports.—Report.~~ — The Department of Revenue shall publish by May 1 of each  
9 year must include in the economic incentives report required by G.S. 105-256 the following  
10 information itemized by credit and by taxpayer for the 12-month period ending the preceding  
11 December 31: taxpayer:

- 12 (1) The number of credits taken for each credit allowed in this Article.
- 13 (2) The number and enterprise tier area of new jobs with respect to which  
14 credits were generated and to which credits were taken.
- 15 (3) The cost and enterprise tier area of machinery and equipment with respect to  
16 which credits were generated and to which credits were taken.
- 17 (4) The number of new jobs created by businesses located in development  
18 zones, and the percentage of jobs at those locations that were filled by  
19 residents of the zones.
- 20 (5) The amount and enterprise tier area of worker training expenditures with  
21 respect to which credits were generated and to which credits were taken.
- 22 (6) The amount and enterprise tier area of new research and development  
23 expenditures with respect to which credits were generated and to which  
24 credits were taken.
- 25 (7) The cost and enterprise tier area of real property investment with respect to  
26 which credits were generated and to which credits were taken."

27 **SECTION 1.2.** G.S. 105-129.19 reads as rewritten:

28 **"§ 105-129.19. Reports.—Report.**

29 The Department of Revenue must publish by May 1 of each year must include in the  
30 economic incentives report required by G.S. 105-256 the following information for the  
31 12-month period ending the preceding December 31: itemized by credit and by taxpayer:

- 32 (1) The number of taxpayers that took the credits allowed in this Article.
- 33 (2) The cost of business property and renewable energy property with respect to  
34 which credits were taken.
- 35 (2a) Repealed by Session Laws 2002-87, s. 6, effective August 22, 2002.
- 36 (3) The total cost to the General Fund of the credits taken."



1           **SECTION 1.3.** G.S. 105-129.26(e) reads as rewritten:

2           "~~(e) Reports.—Report. — The Department of Commerce and the Department of Revenue~~  
3 ~~shall jointly publish by May 1 of each year~~ must include in the economic incentives report  
4 ~~required by G.S. 105-256~~ the following information itemized by ~~taxpayer for the 12 month~~  
5 ~~period ending the preceding December 31;~~ taxpayer:

- 6           (1) The number and location of large and major recycling facilities qualified  
7           under this Article.
- 8           (2) The number of new jobs created by each recycling facility.
- 9           (3) The amount of investment in each recycling facility.
- 10          (4) The amount of credits taken under this Article."

11           **SECTION 1.4.** Article 3C of Chapter 105 of the General Statutes is amended by  
12 adding a new section to read:

13           "**§ 105-129.29. Sunset.**

14           This Article is repealed for taxable years beginning on or after January 1, 2018."

15           **SECTION 1.5.** G.S. 105-129.38 reads as rewritten:

16           "**§ 105-129.38. Reports.Report.**

17           ~~The Department of Revenue must publish by May 1 of each year~~ must include in the  
18 ~~economic incentives report required by G.S. 105-256~~ the following information ~~for the~~  
19 ~~12 month period ending the preceding December 31;~~ itemized by taxpayer:

- 20          (1) The number of taxpayers that took the credits allowed in this Article.
- 21          (2) The amount of rehabilitation expenses and qualified rehabilitation  
22          expenditures with respect to which credits were taken.
- 23          (3) The total cost to the General Fund of the credits taken."

24           **SECTION 1.6.** Article 3D of Chapter 105 of the General Statutes is amended by  
25 adding a new section to read:

26           "**§ 105-129.39. Sunset.**

27           This Article expires for qualified rehabilitation expenditures and rehabilitation expenses  
28 incurred on or after January 1, 2014."

29           **SECTION 1.7.** G.S. 105-129.44 reads as rewritten:

30           "**§ 105-129.44. Report.**

31           ~~The Department of Revenue must publish by May 1 of each year~~ must include in the  
32 ~~economic incentives report required by G.S. 105-256~~ the following information ~~for the~~  
33 ~~12 month period ending the preceding December 31;~~ itemized by taxpayer:

- 34          (1) The number of taxpayers that took the credit allowed in this Article.
- 35          (2) The location of each qualified North Carolina low-income building or  
36          housing development for which a credit was taken.
- 37          (3) The total cost to the General Fund of the credits taken."

38           **SECTION 1.8.** G.S. 105-129.54 reads as rewritten:

39           "**§ 105-129.54. Reports.Report.**

40           ~~The Department of Revenue must publish by May 1 of each year~~ must include in the  
41 ~~economic incentives report required by G.S. 105-256~~ the following information itemized by  
42 ~~taxpayer for the 12 month period ending the preceding December 31;~~ taxpayer:

- 43          (1) The number of taxpayers that took a credit allowed in this Article, itemized  
44          by the categories of small business, low-tier, other, and university research.
- 45          (2) The amount of each credit taken in each category.
- 46          (3) The total cost to the General Fund of the credits taken."

47           **SECTION 1.9.** Article 3H of Chapter 105 of the General Statutes is amended by  
48 adding a new section to read:

49           "**§ 105-129.75A. Report.**

50           The Department must include in the economic incentives report required by G.S. 105-256  
51 the following information itemized by taxpayer:

1           (1)    The number of taxpayers that took the credits allowed in this Article.

2           (2)    The amount of rehabilitation expenses and qualified rehabilitation  
3           expenditures with respect to which credits were taken.

4           (3)    The total cost to the General Fund of the credits taken."

5           **SECTION 1.10.** G.S. 105-129.85(b) reads as rewritten:

6           "~~(b) Reports.—Report. —~~ The Department of Revenue ~~shall publish by May 1 of each~~  
7 ~~year~~must include in the economic incentives report required by G.S. 105-256 the following  
8 information itemized by credit and by taxpayer for the 12-month period ending the preceding  
9 ~~December 31:~~taxpayer:

10           (1)    The number and amount of credits generated and taken for each credit  
11           allowed in this Article.

12           (2)    The number and development tier area of new jobs with respect to which  
13           credits were generated and to which credits were taken.

14           (3)    The cost and development tier area of business property with respect to  
15           which credits were generated and to which credits were taken.

16           (4)    The cost and development tier area of real property investment with respect  
17           to which credits were generated and to which credits were taken."

18           **SECTION 1.11.** G.S. 105-129.98 reads as rewritten:

19           "**§ 105-129.98. Reports.**~~Report.~~

20           The Department of Revenue ~~must publish by May 1 of each year~~must include in the  
21 economic incentives report required by G.S. 105-256 the following ~~information,~~information  
22 itemized by taxpayer, for the 12-month period ending the preceding ~~December 31:~~taxpayer:

23           (1)    The number of taxpayers that claimed a credit allowed in this Article.

24           (2)    The amount of each credit claimed and the taxes against which it was  
25           applied.

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

27           **SECTION 1.12.** G.S. 105-130.41(c1) reads as rewritten:

28           "~~(c1) Report. —~~ The Department of Revenue ~~must publish by May 1 of each year~~must  
29 include in the economic incentives report required by G.S. 105-256 the following information  
30 itemized by taxpayer for the 12-month period ending the preceding ~~December 31:~~taxpayer:

31           (1)    The number of taxpayers taking a credit allowed in this section.

32           (2)    The total amount of charges assessed for the taxable year.

33           (2a)   The amount of the charges attributable to imports.

34           (2b)   The amount of the charges attributable to exports.

35           (3)    The total cost to the General Fund of the credits taken."

36           **SECTION 1.13.** G.S. 105-130.45(f) reads as rewritten:

37           "~~(f) Report. —~~ The Department of Revenue ~~must publish by May 1 of each year~~must  
38 include in the economic incentives report required by G.S. 105-256 the following information  
39 itemized by taxpayer for the 12-month period ending the preceding ~~December 31:~~taxpayer:

40           (1)    The number of taxpayers taking a credit allowed in this section.

41           (2)    The total amount of exports with respect to which credits were taken.

42           (3)    The total cost to the General Fund of the credits taken."

43           **SECTION 1.14.** G.S. 105-130.46(k) reads as rewritten:

44           "~~(k) Reports.—~~ Any corporation that takes a credit under this section ~~must submit an~~  
45 ~~annual report by May 1 of each year to the Senate Finance Committee, the House of~~  
46 ~~Representatives Finance Committee, the Senate Appropriations Committee, the House of~~  
47 ~~Representatives Appropriations Committee, and the Fiscal Research Division of the General~~  
48 ~~Assembly. The report must state the amount of credit earned by the corporation during the~~  
49 ~~previous year, the amount of credit including carryforwards claimed by the corporation during~~  
50 ~~the previous year, and the percentage of domestic leaf content in cigarettes produced by the~~  
51 ~~corporation during the previous year. The first reports required under this section are due by~~

1 ~~May 1, 2006~~. Report. – The Department must include in the economic incentives report  
2 required by G.S. 105-256 the following information itemized by taxpayer:

- 3 (1) The number of taxpayers that took the credit allowed in this section.
- 4 (2) The amount of cigarettes and other tobacco products exported through the  
5 North Carolina State Ports with respect to which credits were taken.
- 6 (3) The percentage of domestic leaf content in cigarettes produced during the  
7 previous year, as reported by the taxpayer.
- 8 (4) The total cost to the General Fund of the credits taken."

9 **SECTION 1.15.** G.S. 105-130.47(h) reads as rewritten:

10 "(h) Report. – The Department of Revenue ~~must publish by May 1 of each year~~ must  
11 include in the economic incentives report required by G.S. 105-256 the following information,  
12 itemized by taxpayer for the 12-month period ending the preceding December 31: taxpayer:

- 13 (1) The location of sites used in a production for which a credit was taken.
- 14 (2) The qualifying expenses for which a credit was taken, classified by whether  
15 the expenses were for goods, services, or compensation paid by the  
16 production company.
- 17 (3) The number of people employed in the State with respect to credits taken.
- 18 (4) The total cost to the General Fund of the credits taken."

19 **SECTION 1.16.** G.S. 105-151.22(c1) reads as rewritten:

20 "(c1) Report. – The Department of Revenue ~~must publish by May 1 of each year~~ must  
21 include in the economic incentives report required by G.S. 105-256 the following information  
22 itemized by taxpayer for the 12-month period ending the preceding December 31: taxpayer:

- 23 (1) The number of taxpayers taking a credit allowed in this section.
- 24 (2) The total amount of charges assessed for the taxable year.
- 25 (2a) The amount of the charges attributable to imports.
- 26 (2b) The amount of the charges attributable to exports.
- 27 (3) The total cost to the General Fund of the credits taken."

28 **SECTION 1.17.** G.S. 105-151.29(h) reads as rewritten:

29 "(h) Report. – The Department of Revenue ~~must publish by May 1 of each year~~ must  
30 include in the economic incentives report required by G.S. 105-256 the following  
31 information; information itemized by taxpayer for the 12-month period ending the preceding  
32 December 31: taxpayer:

- 33 (1) The location of sites used in a production for which a credit was taken.
- 34 (2) The qualifying expenses for which a credit was taken, classified by whether  
35 the expenses were for goods, services, or compensation paid by the  
36 production company.
- 37 (3) The number of people employed in the State with respect to credits taken.
- 38 (4) The total cost to the General Fund of the credits taken."

39 **SECTION 1.18.** G.S. 105-164.14(a1), (f), (g), (h), (j), (k), (l), (m), (n), and (o) are  
40 repealed.

41 **SECTION 1.19.** Article 5 of Chapter 105 of the General Statutes is amended by  
42 adding a new section to read:

43 **"§ 105-164.14A. Economic incentive refunds.**

44 (a) Refund. – The following taxpayers are allowed an annual refund of sales and use  
45 taxes paid under this Article:

- 46 (1) Passenger air carrier. – An interstate passenger air carrier is allowed a refund  
47 of the sales and use tax paid by it on fuel in excess of two million five  
48 hundred thousand dollars (\$2,500,000). The amount of sales and use tax paid  
49 does not include a refund allowed to the interstate passenger air carrier under  
50 G.S. 105-164.14(a). This subdivision is repealed for purchases made on or  
51 after January 1, 2011.

- 1           (2)   Major recycling facility. – An owner of a major recycling facility is allowed  
2           a refund of the sales and use tax paid by it on building materials, building  
3           supplies, fixtures, and equipment that become a part of the real property of  
4           the recycling facility. Liability incurred indirectly by the owner for sales and  
5           use taxes on these items is considered tax paid by the owner. This  
6           subdivision is repealed for purchases made on or after January 1, 2018.
- 7           (3)   Business in low-tier area. – A taxpayer that is engaged primarily in one of  
8           the businesses listed in G.S. 105-129.83(a) in a development tier one area  
9           and that places machinery and equipment in service in that area is allowed a  
10          refund of the sales and use tax paid by it on the machinery and equipment.  
11          For purposes of this subdivision, "machinery and equipment" includes  
12          engines, machinery, equipment, tools, and implements used or designed to  
13          be used in one of the businesses listed in G.S. 105-129.83, capitalized for tax  
14          purposes under the Code, and not leased to another party. Liability incurred  
15          indirectly by the taxpayer for sales and use taxes on these items is  
16          considered tax paid by the taxpayer. The sunset for Article 3J of Chapter 105  
17          of the General Statutes for development tier one areas applies to this  
18          subdivision.
- 19          (4)   Motorsports team or sanctioning body. – A professional motorsports racing  
20          team or a motorsports sanctioning body is allowed a refund of the sales and  
21          use tax paid by it in this State on aviation fuel that is used to travel to or  
22          from a motorsports event in this State, to travel to a motorsports event in  
23          another state from a location in this State, or to travel to this State from a  
24          motorsports event in another state. For purposes of this subdivision, a  
25          "motorsports event" includes a motorsports race, a motorsports sponsor  
26          event, and motorsports testing. This subdivision is repealed for purchases  
27          made on or after January 1, 2011.
- 28          (5)   Professional motorsports team. – A professional motorsports racing team is  
29          allowed a refund of fifty percent (50%) of the sales and use tax paid by it in  
30          this State on tangible personal property, other than tires or accessories, that  
31          comprises any part of a professional motorsports vehicle. For purposes of  
32          this subdivision, "motorsports accessories" includes instrumentation,  
33          telemetry, consumables, and paint. This subdivision is repealed for  
34          purchases made on or after January 1, 2014.
- 35          (6)   Analytical services business. – A taxpayer engaged in analytical services in  
36          this State is allowed a refund of sales and use tax paid by it. This subdivision  
37          is repealed for purchases made on or after January 1, 2013. The amount of  
38          the refund is the greater of the following:
- 39               a.   Fifty percent (50%) of the eligible amount of sales and use tax paid  
40               by it on tangible personal property that is consumed or transformed  
41               in analytical service activities. The eligible amount of sales and use  
42               tax paid by the taxpayer in this State is the amount by which sales  
43               and use tax paid by the taxpayer in this State in the fiscal year exceed  
44               the amount paid by the taxpayer in this State in the 2006-2007 State  
45               fiscal year.
- 46               b.   Fifty percent (50%) of the amount of sales and use tax paid by it in  
47               the fiscal year on medical reagents.
- 48          (7)   Railroad intermodal facility. – The owner or lessee of an eligible railroad  
49          intermodal facility is allowed a refund of sales and use tax paid by it under  
50          this Article on building materials, building supplies, fixtures, and equipment  
51          that become a part of the real property of the facility. Liability incurred

1 indirectly by the owner or lessee of the facility for sales and use taxes on  
2 these items is considered tax paid by the owner or lessee. This subdivision is  
3 repealed for purchases made on or after January 1, 2038.

4 (b) Administration. – A request for a refund must be in writing and must include any  
5 information and documentation required by the Secretary. A request for a refund is due within  
6 six months after the end of the State's fiscal year. Refunds applied for after the due date are  
7 barred.

8 (c) Report. – The Department must include in the economic incentives report required  
9 by G.S. 105-256 the following information itemized by refund and by taxpayer:

10 (1) The number of taxpayers claiming a refund allowed in this section.

11 (2) The total amount of purchases with respect to which refunds were claimed.

12 (3) The total cost to the General Fund of the refunds claimed."

13 **SECTION 1.20.** Article 5 of Chapter 105 of the General Statutes is amended by  
14 adding a new section to read:

15 "**§ 105-164.14B. Certain industrial facilities refunds.**

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

17 (1) Air courier services. – The furnishing of air delivery of individually  
18 addressed letters and packages for compensation, except by the United  
19 States Postal Service.

20 (2) Aircraft manufacturing. – The manufacturing or assembling of complete  
21 aircraft or of aircraft engines, blisks, fuselage sections, flight decks, flight  
22 deck systems or components, wings, fuselage fairings, fins, moving leading  
23 and trailing wing edges, wing boxes, nose sections, tailplanes, passenger  
24 doors, nacelles, thrust reversers, landing gear, braking systems, or any  
25 combination of these.

26 (3) Bioprocessing. – Biomanufacturing or processing that includes the culture  
27 of cells to make commercial products, the purification of biomolecules from  
28 cells, or the use of these molecules in manufacturing.

29 (4) Reserved.

30 (5) Reserved.

31 (6) Facility. – A single building or structure or a group of buildings or structures  
32 that are located on a single parcel of land or on contiguous parcels of land  
33 under common ownership and any other related real property contained on  
34 the parcel or parcels.

35 (7) Financial services, securities operations, and related systems development. –  
36 One or both of the following functions:

37 a. Performing analysis, operations, trading, or sales functions for  
38 investment banking, securities dealing and brokering, securities  
39 trading and underwriting, investment portfolio or mutual fund  
40 management, retirement services, or employee benefit  
41 administration.

42 b. Developing information technology systems and applications,  
43 managing and enhancing operating applications and databases, or  
44 providing, operating, and maintaining telecommunications networks  
45 and distributed and mainframe computing resources for investment  
46 banking, securities dealing and brokering, securities trading and  
47 underwriting, investment portfolio or mutual fund management,  
48 retirement services, or employee benefit administration.

49 (8) Reserved.

50 (9) Reserved.

51 (10) Reserved.

- 1           (11) Motor vehicle manufacturing. – Any of the following:  
2           a.     Manufacturing complete automobiles and light-duty motor vehicles.  
3           b.     Manufacturing heavy-duty truck chassis and assembling complete  
4                 heavy-duty trucks, buses, heavy-duty motor homes, and other special  
5                 purpose heavy-duty motor vehicles for highway use.  
6           c.     Manufacturing complete military armored vehicles, nonarmored  
7                 military universal carriers, combat tanks, and specialized components  
8                 for combat tanks.
- 9           (12) Reserved.
- 10          (13) Reserved.
- 11          (14) Pharmaceutical and medicine manufacturing and distribution of  
12             pharmaceuticals and medicines. – Any of the following:  
13          a.     Manufacturing biological and medicinal products. For purposes of  
14             this sub-subdivision, a biological product is a preparation that is  
15             synthesized from living organisms or their products and used  
16             medically as a diagnostic, preventive, or therapeutic agent. For the  
17             purpose of this sub-subdivision, bacteria, viruses, and their parts are  
18             considered living organisms.  
19          b.     Processing botanical drugs and herbs by grading, grinding, and  
20             milling.  
21          c.     Isolating active medicinal principals from botanical drugs and herbs.  
22          d.     Manufacturing pharmaceutical products intended for internal and  
23             external consumption in forms such as ampoules, tablets, capsules,  
24             vials, ointments, powders, solutions, and suspensions.
- 25          (15) Reserved.
- 26          (16) Reserved.
- 27          (17) Related entity. – An entity for which the taxpayer possesses directly or  
28             indirectly at least eighty percent (80%) of the control and value.
- 29          (18) Semiconductor manufacturing. – The development and production of  
30             semiconductor material, devices, or components.
- 31          (19) Solar electricity generating materials manufacturing. – The development and  
32             production of one or more of the following:  
33          a.     Photovoltaic materials or modules used in producing electricity.  
34          b.     Polymers or polymer films primarily intended for incorporation into  
35             photovoltaic materials or modules used in producing electricity.
- 36          (20) Strategic partner. – A business that is engaged in activities at the facility that  
37             directly contribute to the manufacture and distribution of computers and  
38             computer peripherals and with whom the taxpayer has contracted to provide  
39             those activities at the facility in direct support of its manufacturing and  
40             distribution activities.
- 41          (b) Refund. – An owner of an industrial facility that meets the business, minimum  
42             investment, and industry-specific requirements of this section is allowed an annual refund of  
43             sales and use tax paid by it under this Article on building materials, building supplies, fixtures,  
44             and equipment that are installed in the construction of the facility and that become a part of the  
45             real property of the facility. Liability incurred indirectly by the owner for sales and use taxes on  
46             those items is considered tax paid by the owner. The requirements are:
- 47            (1) Business requirement. – The facility is primarily engaged in one or more of  
48                 the following:  
49            a.     Air courier services.  
50            b.     Aircraft manufacturing.  
51            c.     Bioprocessing.

- 1            d. Financial services, securities operations, and related systems  
2            development.
- 3            e. Motor vehicle manufacturing.
- 4            f. Pharmaceutical and medicine manufacturing and distribution of  
5            pharmaceuticals and medicines.
- 6            g. Semiconductor manufacturing.
- 7            h. Solar electricity generating materials manufacturing.
- 8            (2) Minimum investment requirement. – The Secretary of Commerce has  
9            certified that the owner of the facility will invest at least the required amount  
10           of private funds to construct the facility in this State. For the purpose of this  
11           subsection, costs of construction may include costs of acquiring and  
12           improving land for the facility and costs of equipment for the facility. If the  
13           facility is located in a development tier one area, the required amount is fifty  
14           million dollars (\$50,000,000). For all other facilities, the required amount is  
15           one hundred million dollars (\$100,000,000). In the case of a computer  
16           manufacturing facility, the owner may invest these funds either directly or  
17           indirectly through a related entity or strategic partner.
- 18           (3) Industry-specific requirements:
- 19           a. If the facility is primarily engaged in financial services, securities  
20           operations, and related systems development, it satisfies all of the  
21           following conditions:
- 22           1. It is owned and operated by the business for which the  
23           services are provided or by a related entity of that business as  
24           defined in G.S. 105-130.7A.
- 25           2. No part of it is leased to a third-party tenant that is not a  
26           related entity of the business.
- 27           b. If the facility is primarily engaged in solar electricity generating  
28           materials manufacturing, the business satisfies a wage standard at the  
29           facility. The wage standard is equal to one hundred five percent  
30           (105%) of the lesser of the average weekly wage for all insured  
31           private employers in the State and the average weekly wage for all  
32           insured private employers in the county. A business satisfies the  
33           wage standard if it pays an average weekly wage that is at least equal  
34           to the amount required by this sub-subdivision. In making the wage  
35           calculation, the business must include any jobs that were filled for at  
36           least 1,600 hours during the calendar year.
- 37           (c) Forfeiture. – If the owner of an eligible facility does not make the required  
38           minimum investment within five years after the first refund under this section with respect to  
39           the facility, the facility loses its eligibility and the owner forfeits all refunds already received  
40           under this subsection. Upon forfeiture, the owner is liable for tax under this Article equal to the  
41           amount of all past taxes refunded under this section, plus interest at the rate established in  
42           G.S. 105-241.21, computed from the date each refund was issued. The tax and interest are due  
43           30 days after the date of the forfeiture. A person that fails to pay the tax and interest is subject  
44           to the penalties provided in G.S. 105-236.
- 45           (d) Administration. – A request for a refund must be in writing and must include any  
46           information and documentation required by the Secretary. A request for a refund is due within  
47           six months after the end of the State's fiscal year. Refunds applied for after the due date are  
48           barred.
- 49           (e) Report. – The Department must include in the economic incentives report required  
50           by G.S. 105-256 the following information itemized by refund and taxpayer:
- 51           (1) The number of taxpayers claiming a refund allowed in this section.



- 1                   (2)    The total amount of purchases with respect to which refunds were claimed.  
 2                   (3)    The location of facilities with respect to which refunds were claimed.  
 3                   (4)    The total cost to the General Fund of the refunds claimed.  
 4       (f)        Sunset. – This section is repealed for sales made on or after January 1, 2013."

5                   **SECTION 1.21.** Article 5 of Chapter 105 of the General Statutes is amended by  
 6 adding a new section to read:

7       **"§ 105-164.29B. Information to counties and cities.**

8                The Secretary must give information on refunds of tax made under this Article to a  
 9 designated county or city official within 30 days after the official makes a written request to the  
 10 Secretary for the information. For a request made by a county official, the Secretary must give  
 11 the official a list of each claimant that received a refund in the past 12 months of at least one  
 12 thousand dollars (\$1,000) of tax paid to the county. For a request made by a city official, the  
 13 Secretary must give the official a list of each claimant that received a refund in the past 12  
 14 months of at least one thousand dollars (\$1,000) of tax paid to all the counties in which the city  
 15 is located. The list must include the name and address of each of these claimants and the  
 16 amount of the refund received from each county covered by the request.

17               A claimant that has received a refund under this Article of tax paid to a county must give  
 18 information on the refund to a designated official of the county or a city located in the county.  
 19 The claimant must give the information to the county or city official within 30 days after the  
 20 official makes a written request to the claimant for the information. For a request by a county or  
 21 city official, the claimant must give the official a copy of the request for the refund and any  
 22 supporting documentation requested by the official to verify the request. If a claimant  
 23 determines that a refund it has received under this Article is incorrect, the claimant must file an  
 24 amended request for a refund.

25               For purposes of this section, a designated county official is the chair of the board of county  
 26 commissioners or a county official designated in a resolution adopted by the Board, and a  
 27 designated city official is the mayor of the city or a city official designated in a resolution  
 28 adopted by the city's governing board. Information given to a county or city official under this  
 29 section is not a public record and may not be disclosed except as provided in G.S. 153A-148.1  
 30 or G.S. 160A-208.1."

31               **SECTION 1.22.** G.S. 105-256(a) is amended by inserting a new subdivision  
 32 between subdivisions (2) and (3) to read:

- 33       (a)        Publications. – The Secretary shall prepare and publish the following:

34        ...

- 35       (2a)       By May 1 of each year, an economic incentives report that contains  
 36 information on tax credits and tax refunds, itemized by credit or refund and  
 37 by taxpayer, for the previous calendar year.

38        ...."

39  
 40       **PART II: OBSOLETE ECONOMIC INCENTIVES**

41               **SECTION 2.1.** Article 3C of Chapter 105 of the General Statutes reads as  
 42 rewritten:

43                                       "Article 3C.

44                                       "Tax Incentives For Recycling Facilities.

45       **"§ 105-129.25. Definitions.**

46                The following definitions apply in this Article:

47        ...

- 48       (3)        ~~Large recycling facility. — A recycling facility that qualifies under~~  
 49                                       ~~G.S. 105-129.26(b).~~

50        ...

51       **"§ 105-129.26. Qualification; forfeiture.**

1 (a) Major Recycling Facility. – A recycling facility qualifies for the tax benefits  
 2 provided in this Article and in Article 5 of this Chapter for major recycling facilities if it meets  
 3 all of the following conditions:

- 4 (1) The facility is located in an area that, at the time the owner began  
 5 construction of the facility, was an enterprise tier one area pursuant to  
 6 G.S. 105-129.3.
- 7 (2) The Secretary of Commerce has certified that the owner will, by the end of  
 8 the fourth year after the year the owner begins construction of the recycling  
 9 facility, invest at least three hundred million dollars (\$300,000,000) in the  
 10 facility and create at least 250 new, full-time jobs at the facility.
- 11 (3) The jobs at the recycling facility meet the wage standard in effect pursuant  
 12 to G.S. 105-129.4(b) as of the date the owner begins construction of the  
 13 facility.

14 ~~(b) Large Recycling Facility. – A recycling facility qualifies for the tax credit provided~~  
 15 ~~in G.S. 105-129.27 for large recycling facilities if it meets all of the following conditions:~~

- 16 ~~(1) The facility is located in an area that, at the time the owner began~~  
 17 ~~construction of the facility, was an enterprise tier one area pursuant to~~  
 18 ~~G.S. 105-129.3.~~
- 19 ~~(2) The Secretary of Commerce has certified that the owner will, by the end of~~  
 20 ~~the second year after the year the owner begins construction of the recycling~~  
 21 ~~facility, invest at least one hundred fifty million dollars (\$150,000,000) in~~  
 22 ~~the facility and create at least 155 new, full-time jobs at the facility.~~
- 23 ~~(3) The jobs at the recycling facility meet the wage standard in effect pursuant~~  
 24 ~~to G.S. 105-129.4(b) as of the date the owner begins construction of the~~  
 25 ~~facility.~~

26 ...

27 (e) Reports. – The Department of Commerce and the Department of Revenue shall  
 28 jointly publish by May 1 of each year the following information itemized by taxpayer for the  
 29 12-month period ending the preceding December 31:

- 30 (1) The number and location of ~~large and~~ major recycling facilities qualified  
 31 under this Article.
- 32 (2) The number of new jobs created by each recycling facility.
- 33 (3) The amount of investment in each recycling facility.
- 34 (4) The amount of credits taken under this Article.

35 **"§ 105-129.27. Credit for investing in large or major recycling facility.**

36 (a) Credit. – An owner that purchases or leases machinery and equipment for a major  
 37 recycling facility in this State during the taxable year is allowed a credit equal to fifty percent  
 38 (50%) of the amount payable by the owner during the taxable year to purchase or lease the  
 39 machinery and equipment. ~~An owner that purchases or leases machinery and equipment for a~~  
 40 ~~large recycling facility in this State during the taxable year is allowed a credit equal to twenty~~  
 41 ~~percent (20%) of the amount payable by the owner during the taxable year to purchase or lease~~  
 42 ~~the machinery and equipment."~~

43 ...."

44 **SECTION 2.2.** Article 3G of Chapter 105 of the General Statutes is repealed.

45 **PART III: CONFORMING CHANGES**

46 **SECTION 3.1.** G.S. 75-29(a) reads as rewritten:

47 "(a) No person, firm or corporation shall advertise the sale of its merchandise using the  
 48 term "wholesale" with regard to its sale prices, except as such word may appear in the  
 49 company or firm name, unless such advertised sale or sales is, or are, to a customer or  
 50 customers having a certificate of resale issued pursuant to G.S. 105-164.28 and recorded as

1 required by G.S. 105-164.25 or unless the wholesale price is established by an independent  
2 agency not engaged in the manufacture, distribution or sale of such merchandise.

3 No person, firm or corporation shall utilize in any commercial transaction a company or  
4 firm name which contains the word "wholesale" unless such person, firm or corporation is  
5 engaged principally in sales at wholesale as defined in G.S. 105-164.3. For the purposes of  
6 determining whether sales are made principally at wholesale or retail, all sales to employees of  
7 any such person, firm or corporation, all sales to organizations subject to refunds pursuant to  
8 ~~G.S. 105-164.14~~, G.S. 105-164.14 through G.S. 105-164.14B and all exempt sales pursuant to  
9 G.S. 105-164.13 shall be considered sales at wholesale. Sales of merchandise for delivery by  
10 the seller to the purchaser at a location other than the seller's place of business shall be  
11 considered sales at wholesale for the purposes of this section."

12 **SECTION 3.2.** G.S. 105-129.28a reads as rewritten:

13 **"§ 105-129.2. Definitions.**

14 The following definitions apply in this Article:

15 ...

16 (8a) Eligible major industry. – A taxpayer is an eligible major industry for the  
17 purposes of this Article if the taxpayer is primarily engaged in one of the  
18 industries listed in ~~G.S. 105-164.14(j)(3)~~ G.S. 105-164.14B and the Secretary  
19 of Commerce has certified that the owner of the facility will invest at least  
20 one hundred million dollars (\$100,000,000) of private funds to acquire,  
21 construct, and equip a facility in this State to engage in one or more of those  
22 industries."

23 ...."

24 **SECTION 3.3.** G.S. 105-164.3 is amended by adding a new subsection to read:

25 "(6a) Development tier. – The classification assigned to an area pursuant to  
26 G.S. 143B-437.08."

27 **SECTION 3.4.** G.S. 105-187.18(b) reads as rewritten:

28 "(b) Except for the exemption for sales a state cannot constitutionally tax, the  
29 exemptions ~~in G.S. 105-164.13~~ and the refunds allowed in ~~G.S. 105-164.14~~ Article 5 of this  
30 Chapter do not apply to the taxes imposed by this Article."

31 **SECTION 3.5.** G.S. 105-187.23 reads as rewritten:

32 **"§ 105-187.23. Exemptions and refunds.**

33 (a) Exemptions. – Except for the exemption for sales a state cannot constitutionally tax,  
34 the exemptions allowed in G.S. 105-164.13 Article 5 of this Chapter do not apply to the taxes  
35 imposed by this Article.

36 (b) Refunds. – The refunds allowed in ~~G.S. 105-164.14~~ Article 5 of this Chapter do not  
37 apply to the taxes imposed by this Article. A person who buys at least 50 new white goods of  
38 any kind in the same sale or purchase may obtain a refund equal to sixty percent (60%) of the  
39 amount of tax imposed by this Article on the white goods when all of the white goods  
40 purchased are to be placed in new or remodeled dwelling units that are located in this State and  
41 do not contain the kind of white goods purchased. To obtain a refund, a person must file an  
42 application for a refund with the Secretary. The application must contain the information  
43 required by the Secretary, be signed by the purchaser of the white goods, and be submitted by  
44 the date set by the Secretary."

45 **SECTION 3.6.** G.S. 105-187.33 reads as rewritten:

46 **"§ 105-187.33. Exemptions and refunds.**

47 Except for the exemption for sales a state cannot constitutionally tax, the exemptions and  
48 refunds allowed in G.S. 105-164.13 Article 5 of this Chapter do not apply to the taxes imposed  
49 by this Article. ~~The refunds allowed in G.S. 105-164.14 do not apply to the taxes imposed by~~  
50 ~~this Article.~~"

51 **SECTION 3.7.** G.S. 105-259(b) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person except as provided in this subsection. Standards used or to be used for the selection of returns for examination and data used or to be used for determining the standards may not be disclosed for any purpose. All other tax information may be disclosed only if the disclosure is made for one of the following purposes:

...

(6a) To furnish the county or city official designated under ~~G.S. 105-164.14(f)~~ G.S. 105-164.29B a list of claimants that have received a refund of the county sales or use tax to the extent authorized in ~~G.S. 105-164.14(f)~~ that statute.

...

~~(31) To verify with a related entity or strategic partner information relating to that entity provided by a taxpayer claiming a credit under Article 3G of this Chapter.~~

...

~~(35) To furnish to a taxpayer claiming a credit under Article 3G of this Chapter information from a related entity or strategic partner to the extent that information was used by the Secretary to adjust the amount of tax credit claimed by the taxpayer.~~

...

(37) To furnish the Department of Commerce with the information needed to complete the ~~studies~~ study required under ~~G.S. 105-129.2A~~ and G.S. 105-129.82."

...

**SECTION 3.8.** G.S. 105-467(b) reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in G.S. 105-164.13, the State sales and use tax holidays contained in G.S. 105-164.13C and G.S. 105-164.13D, and the State refund provisions contained in G.S. 105-164.14 through G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed under this Article. Except as provided in this subsection, a taxing county may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax. A local school administrative unit and a joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service. Sales and use tax liability indirectly incurred by the entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the entity and is being erected, altered, or repaired for use by the entity is considered a sales or use tax liability incurred on direct purchases by the entity for the purpose of this subsection. A request for a refund shall be in writing and shall include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the entity's fiscal year. Refunds applied for more than three years after the due date are barred."

#### **PART IV: EFFECTIVE DATE**

**SECTION 4.** This act becomes effective July 1, 2010. The first economic incentives report required by G.S. 105-256, as amended by this act, is due by May 1, 2011. The first claim for refund by a taxpayer whose sales tax refund period is changed by this act is due within six months after July 1, 2010, and applies to purchases during the time period not covered by the taxpayer's last claim for refund.