

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

S

D

SENATE DRS35373-LYxz-286A\* (1/31)

Short Title: Bill Lee Changes.

(Public)

Sponsors: Senator Hoyle.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REPLACE THE TAX CREDITS GENERALLY AVAILABLE UNDER  
THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT  
WITH MORE NARROWLY FOCUSED CREDITS FOR JOB CREATION AND  
BUSINESS INVESTMENT.

The General Assembly of North Carolina enacts:

**PART I. REPLACEMENT OF BILL LEE ACT**

**SECTION 1.1.** Chapter 105 of the General Statutes is amended by adding a  
new Article to read:

"Article 3H.

"Tax Credits for Growing Businesses.

**"§ 105-129.70. Legislative findings.**

The General Assembly finds that:

- (1) It is the policy of the State of North Carolina to stimulate economic activity and to create new jobs for the citizens of the State by encouraging and promoting the expansion of existing business and industry within the State and by recruiting and attracting new business and industry to the State.
- (2) Both short-term and long-term economic trends at the State, national, and international levels have made the successful implementation of the State's economic development policy and programs both more critical and more challenging; and the decline in the State's traditional industries, and the resulting adverse impact upon the State and its citizens, have been exacerbated in recent years by adverse national and State economic trends that contribute to the reduction in the State's

1 industrial base and that inhibit the State's ability to sustain or attract  
2 new and expanding businesses.

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

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

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

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

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

23 **§ 105-129.71. Definitions.**

24 The following definitions apply in this Article:

25 (1) Aircraft maintenance and repair. – The provision of specialized  
26 maintenance or repair services for commercial aircraft or the  
27 rebuilding of commercial aircraft.

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

31 (3) Business property. – Tangible personal property that is used in a  
32 business and capitalized under the Code.

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

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

42 (6) Customer service call center. – The provision of support service by a  
43 business to its customers by telephone or other electronic means to  
44 support products or services of the business. For the purposes of this

- 1 definition, an establishment is primarily engaged in providing support  
2 services by telephone or other electronic means only if at least sixty  
3 percent (60%) of its calls are incoming or at least sixty percent (60%)  
4 of its other electronic communications are initiated by its customers.
- 5 (7) Development tier. – The classification assigned to an area pursuant to  
6 G.S. 143B-437.08.
- 7 (8) Electronic shopping and mail order houses. – An industry in electronic  
8 shopping and mail order houses industry group 4541 as defined by  
9 NAICS.
- 10 (9) Establishment. – Defined in 29 C.F.R § 1904.46, as it existed on  
11 January 1, 2002.
- 12 (10) Full-time job. – A position that requires at least 1,600 hours of work  
13 per year and is intended to be held by one employee during the entire  
14 year. A full-time employee is an employee who holds a full-time job.
- 15 (11) Hub. – Defined in G.S. 105-164.3.
- 16 (12) Information technology and services. – An industry in one of the  
17 following:
- 18 a. Internet service providers, Web search portals, and data  
19 processing subsector 518 as defined by NAICS.
- 20 b. Software publishers industry group 5112 as defined by NAICS.
- 21 c. Computer systems design and related services industry group  
22 5415 as defined by NAICS.
- 23 (13) Reserved.
- 24 (14) Manufacturing. – An industry in manufacturing sectors 31 through 33,  
25 as defined by NAICS, but not including quick printing or retail  
26 bakeries.
- 27 (15) Motorsports facility. – A motorsports racetrack classified in the United  
28 States racetrack national industry 711212, as defined by NAICS.
- 29 (16) Motorsports racing team. – A professional racing team primarily  
30 engaged in the research and development, design, manufacture, repair,  
31 maintenance, and operation of motor vehicles used in live motorsports  
32 racing events before a paying audience.
- 33 (17) NAICS. – The North American Industry Classification System adopted  
34 by the United States Office of Management and Budget as of  
35 December 31, 2002.
- 36 (18) New job. – A full-time job that represents a net increase in the number  
37 of the taxpayer's employees statewide. A new employee is an  
38 employee who holds a new job. The term does not include a job  
39 currently located in this State that is transferred to the business from a  
40 related member of the business.
- 41 (19) Overdue tax debt. – Defined in G.S. 105-243.1.
- 42 (20) Purchase. – Defined in section 179 of the Code.
- 43 (21) Related entity. – Defined in G.S. 105-130.7A.

1           (22) Research and development. – An industry in scientific research and  
2           development services industry group 5417 as defined by NAICS.

3           (23) Urban progress zone. – The classification assigned to an area pursuant  
4           to G.S. 143B-437.09.

5           (24) Warehousing. – An industry in warehousing and storage subsector 493  
6           as defined by NAICS.

7           (25) Wholesale trade. – An industry in wholesale trade sector 42 as defined  
8           by NAICS.

9    **"§ 105-129.72. Sunset; studies.**

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

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

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

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

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

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

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

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

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

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

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

39    **"§ 105-129.73. Eligibility; forfeiture.**

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

- 1           (1)   Aircraft maintenance and repair.
- 2           (2)   Air courier services hub.
- 3           (3)   Company headquarters, but only if the additional eligibility  
4           requirements of subsection (b) of this section are satisfied.
- 5           (4)   Customer service call centers.
- 6           (5)   Electronic shopping and mail order houses.
- 7           (6)   Information technology and services.
- 8           (7)   Manufacturing.
- 9           (8)   Motorsports facility.
- 10          (9)   Motorsports racing team.
- 11          (10)  Research and development.
- 12          (11)  Warehousing.
- 13          (12)  Wholesale trade.

14          (b)   Company Headquarters Eligibility. – A taxpayer is eligible for a credit under  
15 this Article with respect to a company headquarters only if the taxpayer creates at least  
16 75 new jobs at the company headquarters within a 12-month period. A taxpayer that  
17 meets this job creation requirement is eligible for credits under this Article with respect  
18 to the company headquarters for three taxable years beginning with the year in which  
19 the job creation requirement is satisfied. A taxpayer that creates an additional 75 new  
20 jobs at the company headquarters in a 12-month period during a three-year eligibility  
21 period does not qualify for any extended eligibility period. However, a taxpayer that  
22 creates an additional 75 new jobs at the company headquarters in a 12-month period  
23 after the completion of a three-year eligibility period is eligible for credits with respect  
24 to the company headquarters for an additional three taxable years beginning in the year  
25 in which the additional job creation requirement is satisfied.

26          (c)   Wage Standard. – A taxpayer is eligible for a credit under this Article in a  
27 development tier two or three area only if the taxpayer satisfies a wage standard. The  
28 taxpayer is not required to satisfy a wage standard if the activity occurs in a  
29 development tier one area. Jobs that are located within an urban progress zone satisfy  
30 the wage if they pay an average weekly wage that is at least equal to ninety-five percent  
31 (95%) of the lesser of the average wage for all insured private employers in the State  
32 and the average wage for all insured private employers in the county. All other jobs  
33 satisfy the wage standard if they pay an average weekly wage that is at least equal to the  
34 lesser of one hundred ten percent (110%) of the average wage for all insured private  
35 employers in the State and ninety-five percent (95%) of the average wage for all insured  
36 private employers in the county. The Department of Commerce shall annually publish  
37 the wage standard for each county.

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

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

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

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

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

36        (g) Overdue Tax Debts. – A taxpayer is not eligible for a credit allowed under  
37 this Article if, at the time the taxpayer claims the credit or an installment or  
38 carryforward of the credit, the taxpayer has received a notice of an overdue tax debt and  
39 that overdue tax debt has not been satisfied or otherwise resolved.

40        (h) Expiration. – If, during the period that installments of a credit under this  
41 Article accrue, the taxpayer is no longer engaged in one of the types of business  
42 described in subsection (a) of this section, the credit expires. If, during the period that  
43 installments of a credit under this Article accrue, the number of jobs of an eligible  
44 business falls below the minimum number required under subsection (a) of this section,

1 any credit associated with that business expires. When a credit expires, the taxpayer  
2 may not take any remaining installments of the credit. The taxpayer may, however, take  
3 the portion of an installment that accrued in a previous year and was carried forward to  
4 the extent permitted under G.S. 105-129.74. A change in the development tier  
5 designation of the location of an establishment does not result in expiration of a credit  
6 under this Article.

7 (i) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the  
8 taxpayer was not eligible for the credit for the calendar year in which the taxpayer  
9 engaged in the activity for which the credit was claimed. In addition, a taxpayer forfeits  
10 a credit for investment in real property under G.S. 105-129.79 if the taxpayer fails to  
11 timely create the number of required new jobs or to timely make the required level of  
12 investment under G.S. 105-129.79(b). A taxpayer that forfeits a credit under this Article  
13 is liable for all past taxes avoided as a result of the credit plus interest at the rate  
14 established under G.S. 105-241.1(i), computed from the date the taxes would have been  
15 due if the credit had not been allowed. The past taxes and interest are due 30 days after  
16 the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by  
17 the due date is subject to the penalties provided in G.S. 105-236.

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

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

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

31 (3) The business was acquired by its employees directly or indirectly  
32 through an acquisition company under an employee stock option  
33 transaction or another similar mechanism. For the purpose of this  
34 subdivision, 'acquired' means that as part of the initial purchase of a  
35 business by the employees, the purchase included an agreement for the  
36 employees through the employee stock option transaction or another  
37 similar mechanism to obtain one of the following:

38 a. Ownership of more than fifty percent (50%) of the business.

39 b. Ownership of not less than forty percent (40%) of the business  
40 within seven years if the business has tangible assets with a net  
41 book value in excess of one hundred million dollars  
42 (\$100,000,000) and has the majority of its operations located in  
43 a development tier one area.

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

6       (l) Planned Expansion. – A taxpayer that signs a letter of commitment with the  
7 Department of Commerce, after the Department has calculated the development tier  
8 designations for the next year but before the beginning of that year, to undertake  
9 specific activities at a specific site within the next two years may calculate the credit for  
10 which it qualifies based on the establishment's development tier designation and urban  
11 progress zone designation in the year in which the letter of commitment was signed by  
12 the taxpayer. If the taxpayer does not engage in the activities within the two-year period,  
13 the taxpayer does not qualify for the credit; however, if the taxpayer later engages in the  
14 activities, the taxpayer qualifies for the credit based on the development tier and urban  
15 progress zone designations in effect at that time.

16 **"§ 105-129.74. Tax election; cap; carryforwards; limitations.**

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

23       (b) Cap. – The credits allowed under this Article may not exceed fifty percent  
24 (50%) of the cumulative amount of taxes against which they may be claimed for the  
25 taxable year, reduced by the sum of all other credits allowed against those taxes, except  
26 tax payments made by or on behalf of the taxpayer. This limitation applies to the  
27 cumulative amount of credit, including carryforwards, claimed by the taxpayer under  
28 this Article for the taxable year.

29       (c) Carryforward. – Unless a longer carryforward period applies, any unused  
30 portion of a credit allowed under G.S. 105-129.77 or G.S. 105-129.78 may be carried  
31 forward for five years and any unused portion of a credit allowed under  
32 G.S. 105-129.79 may be carried forward for 15 years. If the Secretary of Commerce  
33 makes a written determination that the taxpayer is expected to purchase or lease, and  
34 place in service in connection with an eligible business within a two-year period, at least  
35 one hundred fifty million dollars (\$150,000,000) worth of business and real property,  
36 any unused portion of a credit under this Article with respect to the establishment that  
37 satisfies that condition may be carried forward for the succeeding 20 years. If the  
38 taxpayer does not make the required level of investment, the taxpayer shall apply the  
39 five-year carryforward period rather than the 20-year carryforward period.

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

43 **"§ 105-129.75. Fees and reports.**



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

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

12           (1) The number of claims for each credit allowed in this Article.

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

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

17           (4) The cost and development tier area of real property investment with  
18 respect to which credits were claimed.

19 **"§ 105-129.76. Substantiation.**

20       (a) Records. – To claim a credit allowed by this Article, the taxpayer shall  
21 provide any information required by the Secretary of Revenue. Every taxpayer claiming  
22 a credit under this Article shall maintain and make available for inspection by the  
23 Secretary of Revenue any records the Secretary considers necessary to determine and  
24 verify the amount of the credit to which the taxpayer is entitled. The burden of proving  
25 eligibility for the credit and the amount of the credit shall rest upon the taxpayer, and no  
26 credit shall be allowed to a taxpayer that fails to maintain adequate records or to make  
27 them available for inspection.

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

34           (1) The physical location of the jobs and investment with respect to which  
35 the credit is claimed, including the street address and the development  
36 tier designation of the establishment.

37           (2) The type of business with respect to which the credit is claimed and  
38 the average weekly wage at the establishment with respect to which  
39 the credit is claimed.

40           (3) Any other qualifying information related to a specific credit allowed  
41 under this Article.

42 **"§ 105-129.77. Credit for creating jobs.**

43       (a) Credit. – A taxpayer that meets the eligibility requirements set out in  
44 G.S. 105-129.73 and satisfies the threshold requirement for new job creation in this

1 State under subsection (b) of this section during the taxable year is allowed a credit for  
 2 creating jobs. The amount of the credit for each new job created is set out in the table  
 3 below and is based on the development tier designation of the county in which the job is  
 4 located. If the job is located in an urban progress zone, the amount of the credit is  
 5 increased by one thousand dollars (\$1,000) per job. In addition, if a job located in an  
 6 urban progress zone is filled by a resident of that zone, the amount of the credit is  
 7 increased by an additional two thousand dollars (\$2,000) per job.

<u>Area Development Tier</u>	<u>Amount of Credit</u>
Tier One	\$12,500
Tier Two	5,000
Tier Three	1,000

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

<u>Area Development Tier</u>	<u>Threshold</u>
Tier One	5
Tier Two	10
Tier Three	25

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

33 (d) Installments. – The credit may not be taken in the taxable year in which the  
 34 new jobs are created. Instead, the credit shall be taken in equal installments over the  
 35 four years following the taxable year in which the new jobs were created and is  
 36 conditional upon the continued maintenance of those jobs by the taxpayer. If, in one of  
 37 the four years in which the installment of a credit accrues, a job is no longer filled, the  
 38 credit with respect to that job expires and the taxpayer may not take any remaining  
 39 installment of the credit with respect to that job. If, in one of the years in which the  
 40 installment of a credit accrues, the number of the taxpayer's full-time employees falls  
 41 below the sum of the applicable threshold and the number of full-time employees the  
 42 taxpayer had in the year before the year in which the taxpayer qualified for the credit,  
 43 the credits with respect to all of the new jobs expire, and the taxpayer may not take any  
 44 remaining installments of the credits. When a credit expires under this subsection, the

1 taxpayer may, however, take the portion of an installment that accrued in a previous  
2 year and was carried forward to the extent permitted under G.S. 105-129.74.

3 (e) Transferred Jobs. – Jobs transferred from one area in the State to another area  
4 in the State are not considered new jobs for purposes of this section. Jobs that were  
5 located in this State and that are transferred to the taxpayer from a related member of  
6 the taxpayer are not considered new jobs for purposes of this section. If, in one of the  
7 four years in which the installment of a credit accrues, the job with respect to which the  
8 credit was claimed is moved to an area in a higher-numbered development tier or out of  
9 an urban progress zone, the remaining installments of the credit are allowed only to the  
10 extent they would have been allowed if the job was initially created in the area to which  
11 it was moved. If, in one of the years in which the installment of a credit accrues, the job  
12 with respect to which the credit was claimed is moved to an area in a lower-numbered  
13 development tier or an urban progress zone, the remaining installments of the credit  
14 shall be calculated as if the job had been created initially in the area to which it was  
15 moved.

16 (f) Wage Standard. – For the purposes of this section, a taxpayer satisfies the  
17 wage standard requirement of G.S. 105-129.73 only if the taxpayer satisfies the  
18 requirement with respect to both the new jobs, considered collectively, for which a  
19 credit is claimed and all of the jobs at the establishment, considered collectively, with  
20 respect to which a credit is claimed.

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

23 **§ 105-129.78. Credit for investing in business property.**

24 (a) General Credit. – A taxpayer that meets the eligibility requirements set out in  
25 G.S. 105-129.73 and that has purchased or leased business property and placed it in  
26 service in this State during the taxable year and that has satisfied the threshold  
27 requirements of subsection (c) of this section is allowed a credit equal to the applicable  
28 percentage of the excess of the eligible investment amount over the applicable  
29 threshold. If the taxpayer places business property in service in an urban progress zone,  
30 the applicable percentage is the one for a development tier one area. Business property  
31 is eligible if it is not leased to another party. The credit may not be taken for the taxable  
32 year in which the business property is placed in service but shall be taken in equal  
33 installments over the four years following the taxable year in which it is placed in  
34 service. The applicable percentage is as follows:

<u>Area Development Tier</u>	<u>Applicable Percentage</u>
Tier One	7%
Tier Two	5%
Tier Three	4%

39 (b) Eligible Investment Amount. – The eligible investment amount is the lesser  
40 of (i) the cost of the eligible business property and (ii) the amount by which the cost of  
41 all of the taxpayer's eligible business property that is in service in this State on the last  
42 day of the taxable year exceeds the cost of all of the taxpayer's eligible business  
43 property that was in service in this State on the last day of the base year. The base year

1 is that year, of the three immediately preceding taxable years, in which the taxpayer had  
 2 the most eligible business property in service in this State.

3 (c) Threshold. – The applicable threshold is the appropriate amount set out in the  
 4 following table based on the development tier where the eligible business property is  
 5 placed in service during the taxable year. If the taxpayer places business property in  
 6 service in an urban progress zone, the applicable threshold is the one for a development  
 7 tier one area. If the taxpayer places eligible business property in service at more than  
 8 one establishment in a county during the taxable year, the threshold applies to the  
 9 aggregate amount of eligible business property placed in service during the taxable year  
 10 at all establishments in the county. If the taxpayer places eligible business property in  
 11 service at establishments in different counties, the threshold applies separately to the  
 12 aggregate amount of eligible business property placed in service in each county.

<u>Area Development Tier</u>	<u>Threshold</u>
Tier One	\$ -0-
Tier Two	1,000,000
Tier Three	4,000,000

17 (d) Expiration. – As used in this subsection, the term 'disposed of' means  
 18 disposed of, taken out of service, or moved out of State. If, in one of the four years in  
 19 which the installment of a credit accrues, the business property with respect to which  
 20 the credit was claimed is disposed of, the credit expires, and the taxpayer may not take  
 21 any remaining installment of the credit for that business property unless the cost of that  
 22 business property is offset in the same taxable year by the taxpayer's new investment in  
 23 eligible business property placed in service in the same county, as provided in this  
 24 subsection. If, during the taxable year, the taxpayer disposed of the business property  
 25 for which installments remain, there has been a net reduction in the cost of all the  
 26 taxpayer's eligible business property that are in service in the same county as the  
 27 business property that was disposed of, and the amount of this reduction is greater than  
 28 twenty percent (20%) of the cost of the business property that was disposed of, then the  
 29 credit for the business property that was disposed of expires. If the amount of the net  
 30 reduction is equal to twenty percent (20%) or less of the cost of the business property  
 31 that was disposed of, or if there is no net reduction, then the credit does not expire. In  
 32 determining the amount of any net reduction during the taxable year, the cost of  
 33 business property the taxpayer placed in service during the taxable year and for which  
 34 the taxpayer claims a credit under Article 3A or Article 3B of this Chapter may not be  
 35 included in the cost of all the taxpayer's eligible business property that is in service. If in  
 36 a single taxable year business property with respect to two or more credits in the same  
 37 county are disposed of, the net reduction in the cost of all the taxpayer's eligible  
 38 business property that is in service in the same county is compared to the total cost of all  
 39 the business property for which credits expired in order to determine whether the  
 40 remaining installments of the credits are forfeited.

41 The expiration of a credit does not prevent the taxpayer from taking the portion of an  
 42 installment that accrued in a previous year and was carried forward to the extent  
 43 permitted under G.S. 105-129.74.

1       (e) Transferred Property. – If, in one of the four years in which the installment of  
2 a credit accrues, the business property with respect to which the credit was claimed is  
3 moved to a county in a higher-numbered development tier or to an urban progress zone,  
4 the remaining installments of the credit are allowed only to the extent they would have  
5 been allowed if the business property had been placed in service initially in the area to  
6 which it was moved. If, in one of the four years in which the installment of a credit  
7 accrues, the business property with respect to which a credit was claimed is moved to a  
8 county in a lower-numbered development tier or an urban progress zone, the remaining  
9 installments of the credit shall be calculated as if the business property had been placed  
10 in service initially in the area to which it was moved.

11       (f) Wage Standard. – For the purposes of this section, a taxpayer satisfies the  
12 wage standard requirement of G.S. 105-129.73 only if the taxpayer satisfies the  
13 requirement with respect to all of the jobs at the establishment, considered collectively,  
14 with respect to which a credit is claimed.

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

18 **"§ 105-129.79. Credit for investment in real property.**

19       (a) Credit. – If a taxpayer that has purchased or leased real property in a  
20 development tier one area begins to use the property in an eligible business during the  
21 taxable year, the taxpayer is allowed a credit equal to thirty percent (30%) of the eligible  
22 investment amount if all of the eligibility requirements of G.S. 105-129.73 and of  
23 subsection (b) of this section are met. For the purposes of this section, property is  
24 located in a development tier one area if the area the property is located in was a  
25 development tier one area at the time the taxpayer made a written application for the  
26 determination required under subsection (b) of this section. The eligible investment  
27 amount is the lesser of (i) the cost of the property and (ii) the amount by which the cost  
28 of all of the real property the taxpayer is using in this State in an eligible business on the  
29 last day of the taxable year exceeds the cost of all of the real property the taxpayer was  
30 using in this State in an eligible business on the last day of the base year. The base year  
31 is that year, of the three immediately preceding taxable years, in which the taxpayer was  
32 using the most real property in this State in an eligible business. In the case of property  
33 that is leased, the cost of the property is not determined as provided in G.S. 105-129.71  
34 but is considered to be the taxpayer's lease payments over a seven-year period, plus any  
35 expenditures made by the taxpayer to improve the property before it is used by the  
36 taxpayer if the expenditures are not reimbursed or credited by the lessor. The entire  
37 credit may not be taken for the taxable year in which the property is first used in an  
38 eligible business but shall be taken in equal installments over the seven years following  
39 the taxable year in which the property is first used in an eligible business. When part of  
40 the property is first used in an eligible business in one year and part is first used in an  
41 eligible business in a later year, separate credits may be claimed for the amount of  
42 property first used in an eligible business in each year. The basis in any real property for  
43 which a credit is allowed under this section shall be reduced by the amount of credit  
44 allowable.

1       (b) Determination by the Secretary of Commerce. – A taxpayer is eligible for the  
2 credit allowed under this section with respect to an establishment only if the Secretary  
3 of Commerce makes a written determination that the taxpayer is expected to purchase or  
4 lease and use in an eligible business at that establishment within a three-year period at  
5 least ten million dollars (\$10,000,000) of real property and that the establishment that is  
6 the subject of the credit will create at least 200 new jobs within two years of the time  
7 that the property is first used in an eligible business. If the taxpayer fails to timely make  
8 the required level of investment or fails to timely create the required number of new  
9 jobs, the taxpayer forfeits the credit as provided in G.S. 105-129.73.

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

15       (d) Expiration. – If, in one of the seven years in which the installment of a credit  
16 accrues, the property with respect to which the credit was claimed is no longer used in  
17 an eligible business, the credit expires, and the taxpayer may not take any remaining  
18 installment of the credit. If, in one of the seven years in which the installment of a credit  
19 accrues, part of the property with respect to which the credit was claimed is no longer  
20 used in an eligible business, the remaining installments of the credit shall be reduced by  
21 multiplying it by the fraction described in subsection (c) of this section. If, in one of the  
22 years in which the installment of a credit accrues and by which the taxpayer is required  
23 to have created 200 new jobs at the property, the total number of employees the  
24 taxpayer employs at the property with respect to which the credit is claimed is less than  
25 200, the credit expires, and the taxpayer may not take any remaining installment of the  
26 credit.

27       In each of these cases, the taxpayer may nonetheless take the portion of an  
28 installment that accrued in a previous year and was carried forward to the extent  
29 permitted under G.S. 105-129.74.

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

33       **SECTION 1.2.** Part 2 of Article 10 of Chapter 143B is amended by adding  
34 two new sections to read:

35 **"§ 143B-437.08. Development tier designation.**

36       (a) Tiers Defined. – A development tier one area is a county whose annual  
37 ranking is one of the 40 highest in the State. A development tier two area is a county  
38 whose annual ranking is one of the next 40 highest in the State. A development tier  
39 three area is a county that is not in a lower-numbered development tier.

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

- 1           (1)   The county's rank in a ranking of counties by average rate of  
2           unemployment from lowest to highest, for the most recent 12 months  
3           for which data are available.
- 4           (2)   The county's rank in a ranking of counties by median household  
5           income from highest to lowest, for the most recent 12 months for  
6           which data are available.
- 7           (3)   The county's rank in a ranking of counties by percentage growth in  
8           population from highest to lowest, for the most recent 36 months for  
9           which data are available.
- 10          (4)   The county's rank in a ranking of counties by adjusted assessed  
11          property value per capita, from highest to lowest, for the most recent  
12          taxable year.

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

19          (d)   Data. – In measuring rates of unemployment and median household income,  
20          the Secretary shall use the latest available data published by a State or federal agency  
21          generally recognized as having expertise concerning the data. In measuring assessed  
22          property value, the Secretary shall use the tax records prepared in each county. In  
23          measuring population and population growth, the Secretary shall use the most recent  
24          estimates of population certified by the State Budget Officer. For the purposes of this  
25          section, population statistics do not include people incarcerated in federal or State  
26          prisons.

27          (e)   Exception for Certain Small Counties. – Regardless of the actual  
28          development factor, any county that has a population of less than 12,000 shall  
29          automatically be ranked one of the 40 highest counties, and any county that has a  
30          population of less than 50,000 shall automatically be ranked one of the 80 highest  
31          counties.

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

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

- 39           (1)   It is located in two contiguous counties, one of which has a lower  
40           development tier designation than the other.
- 41           (2)   At least one-third of the park is located in the county with the lower  
42           tier designation.
- 43           (3)   It is owned by the two counties or a joint agency of the counties.

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

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

9                    (1)    The industrial park is located, at one or more sites, in four or more  
10                    contiguous counties.

11                   (2)    At least two of the counties in which the industrial park is located are  
12                    development tier one areas.

13                   (3)    The industrial park is owned by four or more units of local government  
14                    or a nonprofit corporation owned or controlled by four or more units of  
15                    local government.

16                   (4)    In each county in which the industrial park is located, the park has at  
17                    least 300 developable acres. For the purposes of this subdivision,  
18                    'developable acres' includes acreage that is owned directly by the  
19                    industrial park or its owners or that is the subject of a development  
20                    agreement between the industrial park or its owners and a third-party  
21                    owner.

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

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

28    **"§ 143B-437.09. Urban progress zone designation.**

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

32                    (1)    All land within the zone is located in whole within the primary  
33                    corporate limits of a municipality with a population of more than  
34                    10,000 according to the most recent annual population estimates  
35                    certified by the State Budget Officer.

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

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

41                    b.    At least seventy-five percent (75%) of its area is zoned as  
42                    commercial and industrial and it is adjacent to a census tract or  
43                    block group of which at least twenty percent (20%) of the  
44                    population is below the poverty level.



1           (3)    The area of the zone zoned as commercial and industrial does not  
2           exceed thirty-five percent (35%) of the total area of the zone.

3           (4)    The combined area of all zones in the municipality less the smallest  
4           census tract included in the zones does not exceed ten percent (10%)  
5           of the total area of the municipality in which the zones are located.

6           (5)    No census tract or block group may be in more than one zone.

7           (b)    Designation. – Upon request of a local government, the Secretary of  
8           Commerce shall make a written determination whether an area is an urban progress  
9           zone that meets the conditions of subsection (a) of this section. A determination under  
10          this section is effective until December 31 of the year following the year in which the  
11          determination is made. The Department of Commerce shall publish annually a list of all  
12          urban progress zones with a description of their boundaries.

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

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

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

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

22          **SECTION 1.3.** G.S. 105-129.2A(a) reads as rewritten:

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

25          **SECTION 1.4.** There is appropriated from the General Fund to the  
26          Department of Revenue the sum of one hundred twenty thousand dollars (\$120,000) for  
27          the 2006-2007 fiscal year to perform functions related to the administration of Article  
28          3H of Chapter 105 of the General Statutes. There is appropriated from the General  
29          Fund to the Department of Commerce the sum of forty thousand dollars (\$40,000) for  
30          the 2006-2007 fiscal year to perform functions related to the administration of Article  
31          3H of Chapter 105 of the General Statutes.

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

## 35 36 **PART II. CONFORMING CHANGES**

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

38          "(a)    Qualified North Carolina Research Expenses. – A taxpayer that has qualified  
39          North Carolina research expenses for the taxable year is allowed a credit equal to a  
40          percentage of the expenses, determined as provided in this subsection. Only one credit  
41          is allowed under this subsection with respect to the same expenses. If more than one  
42          subdivision of this subsection applies to the same expenses, then the credit is equal to  
43          the higher percentage, not both percentages combined. If part of the taxpayer's qualified  
44          North Carolina research expenses qualifies under subdivision (2) of this subsection and

1 the remainder qualifies under subdivision (3) of this subsection, the applicable  
 2 percentages apply separately to each part of the expenses.

- 3 (1) Small business. – If the taxpayer was a small business as of the last  
 4 day of the taxable year, the applicable percentage is three percent  
 5 (3%).
- 6 (2) Low-tier research. – For expenses with respect to research performed  
 7 in ~~an enterprise tier one, two, or three~~ development tier one area, the  
 8 applicable percentage is three percent (3%).
- 9 (3) Other research. – For expenses not covered under subdivision (1) or  
 10 (2) of this subsection, the percentages provided in the table below  
 11 apply to the taxpayer's qualified North Carolina research expenses  
 12 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% "

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

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

- 17 (1) Refunds. – An eligible person is allowed an annual refund of sales and  
 18 use taxes paid by it under this Article at the general rate of tax on  
 19 eligible machinery and equipment it purchases for use in an enterprise  
 20 tier one area or an enterprise tier two area, as defined in  
 21 G.S. ~~105-129.3~~ 105-129.3 or a development tier one area, as defined in  
 22 G.S. ~~143B-437.08~~. Liability incurred indirectly by the taxpayer for  
 23 sales and use taxes on these items is considered tax paid by the  
 24 taxpayer. A request for a refund must be in writing and must include  
 25 any information and documentation required by the Secretary. A  
 26 request for a refund is due within six months after the end of the State's  
 27 fiscal year. Refunds applied for after the due date are barred.
- 28 (2) Eligibility. – A person is eligible for the refund provided in this  
 29 subsection if it is engaged primarily in one of the businesses listed in  
 30 G.S. 105-129.4(a) in an enterprise tier one area or an enterprise tier  
 31 two area, as defined in G.S. ~~105-129.3~~ 105-129.3 or if it is engaged  
 32 primarily in one of the businesses listed in G.S. 105-129.73(a) in a  
 33 development tier one area, as defined in G.S. 143B-437.08.
- 34 (3) Machinery and equipment. – For the purpose of this subsection, the  
 35 term 'machinery and equipment' means engines, machinery,  
 36 equipment, tools, and implements used or designed to be used in one  
 37 of the businesses listed in G.S. ~~105-129.4(a)~~ 105-129.4(a) or  
 38 105-129.73(a). Machinery and equipment are eligible for the refund  
 39 provided in this subsection if the taxpayer places them in service in an  
 40 enterprise tier one area or an enterprise tier two area, as defined in  
 41  
 42  
 43  
 44

1 G.S. ~~105-129.3~~,105-129.3, or a development tier one area, as defined  
2 in G.S. 143B-437.08, capitalizes them for tax purposes under the  
3 Code, and does not lease them to another party."

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

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

7 ...

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

10 a. It is primarily engaged in one of the industries listed in this  
11 subsection.

12 b. The Secretary of Commerce has certified that the owner of the  
13 facility will invest at least the required amount of private funds  
14 to construct the facility in this State. For the purpose of this  
15 subsection, costs of construction may include costs of acquiring  
16 and improving land for the facility and costs of equipment for  
17 the facility. If the facility is located in an ~~enterprise tier one,~~  
18 ~~two, or three~~ development tier one area as defined in  
19 ~~G.S. 105-129.3~~,G.S. 143B-437.08 the required amount is fifty  
20 million dollars (\$50,000,000). For all other facilities, the  
21 required amount is one hundred million dollars (\$100,000,000).  
22 In the case of a computer manufacturing facility, the owner may  
23 invest these funds either directly or indirectly through a related  
24 entity or strategic partner as those terms are defined in  
25 G.S. 105-129.61. In the case of a computer manufacturing  
26 facility, the term 'facility' has the same meaning as under  
27 G.S. 105-129.61."

28 **SECTION 2.4.** Reserved.

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

30 **"§ 143B-437.04. Community development block grants.**

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

33 (1) No local match is required for grants awarded for projects located in  
34 ~~enterprise—development~~ development tier one areas as defined in  
35 ~~G.S. 105-129.3~~,143B-437.08.

36 (2) To the extent practicable, priority consideration for grants is given to  
37 projects located in ~~enterprise—development~~ development tier one areas as defined in  
38 ~~G.S. 105-129.3~~143B-437.08 or in ~~development—urban progress~~ development zones  
39 that have met the conditions of subsection (b) of this section.

40 (b) In order to qualify for the benefits of this section, after an area is designated a  
41 ~~development~~ development or urban progress zone under G.S. ~~105-129.3A~~,143B-437.09 the governing  
42 body of the city in which the zone is located must adopt a strategy to improve the zone  
43 and establish a ~~development~~ development or urban progress zone committee to oversee the strategy.

1 The strategy and the committee must conform with requirements established by the  
 2 Secretary of Commerce."

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

5 "(4a) ~~Enterprise-Development~~ tier. – The classification assigned to an area  
 6 pursuant to G.S. ~~405-129.3; 143B-437.08.~~"

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

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

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

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

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

24 ...  
 25 (3) The number and ~~enterprise-development~~ tier area of eligible positions  
 26 created by projects with respect to which grants were awarded."

27 **SECTION 2.9.** G.S. 143B-437.56(d) reads as rewritten:

28 "(d) The percentage established in the agreement shall be reduced by one-fourth  
 29 for any eligible position that is located in an ~~enterprise-a development tier four or~~  
 30 ~~five~~two or three area."

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

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

33 (1) Development project. – A capital project that includes capital  
 34 expenditures by both private persons and one or more units of local  
 35 government and that increases net employment opportunities for  
 36 residents of the development district or within a two-mile radius of the  
 37 project, whichever is larger, and increases the local government tax  
 38 base.

39 If the district in which such a project will occur is outside a city's  
 40 central business district (as that district is defined by resolution of the  
 41 city council, which definition is binding and conclusive), then, of the  
 42 private development forecast for a development project by the  
 43 development financing plan for the district in which the project will  
 44 occur, a maximum of twenty percent (20%) of the plan's estimated

1 square footage of floor space may be proposed for use in retail sales,  
2 hotels, banking, and financial services offered directly to consumers,  
3 and other commercial uses other than office space. The twenty percent  
4 (20%) limitation in the preceding sentence does not apply to  
5 development financing districts located in ~~an enterprise~~ a development  
6 tier one area, as defined in G.S. ~~405-129.3, 143B-437.08~~ and created  
7 primarily for tourism-related economic development, such as  
8 developments featuring facilities for exhibitions, athletic and cultural  
9 events, show and public gatherings, racing facilities, parks and  
10 recreation facilities, art galleries, museums, and art centers.

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

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

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

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

23 (1) Fifty percent (50%) of the monies available in the Spay/Neuter  
24 Account shall be reserved for reimbursement for eligible applicants  
25 within ~~enterprise tier one, two, and three~~ development tier one areas as  
26 defined in G.S. ~~405-129.3, 143B-437.08~~. The remaining fifty percent  
27 (50%) of the funds shall be used to fund reimbursement requests from  
28 eligible applicants in ~~enterprise tier four and five~~ development tier two  
29 and three areas as defined in G.S. ~~405-129.3, 143B-437.08~~.

30 (2) Among the eligible counties and cities in ~~enterprise tier one, two, and~~  
31 ~~three~~ development tier one areas, reimbursement shall be made to each  
32 eligible county or city in proportion to the number of dogs and cats  
33 that have received rabies vaccinations during the preceding fiscal year  
34 in that county or city as compared to the number of dogs and cats that  
35 have received rabies vaccinations during the preceding fiscal year by  
36 all of the eligible applicants in ~~enterprise tier one, two, or~~  
37 ~~three~~ development tier one areas.

38 (3) Among the eligible counties and cities in ~~enterprise tier four and~~  
39 ~~five~~ development tier two and three areas, reimbursement shall be  
40 made to each eligible county or city in proportion to the number of  
41 dogs and cats that have received rabies vaccinations during the  
42 preceding fiscal year in that county or city as compared to the number  
43 of dogs and cats that have received rabies vaccinations during the

1 preceding fiscal year by all of the eligible applicants in ~~enterprise tier~~  
2 ~~four and five~~ development tier two and three areas.

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

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

10 "(c2) A county that is an ~~enterprise tier four county or an enterprise tier five~~  
11 ~~development tier two or three~~ county, as these tiers are defined in  
12 ~~G.S. 105-129.3(a), G.S. 143B-437.08,~~ and that has prepared a countywide farmland  
13 protection plan shall match fifteen percent (15%) of the Trust Fund monies it receives  
14 with county funds. A county that has not prepared a countywide farmland protection  
15 plan shall match thirty percent (30%) of the Trust Fund monies it receives with county  
16 funds. A county that is an ~~enterprise tier one county, an enterprise tier two county, or an~~  
17 ~~enterprise tier three county, as these counties area~~ development tier one county, as  
18 defined in ~~G.S. 105-129.3(a), G.S. 143B-437.08,~~ and that has prepared a countywide  
19 farmland protection plan shall not be required to match any of the Trust Fund monies it  
20 receives with county funds."

21 **SECTION 2.13.** Reserved.

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

23 "(d) Application. – This section applies only to land acquired in counties  
24 designated as an ~~enterprise tier one or enterprise tier two~~ development tier one area  
25 under G.S. ~~105-129.3, 143B-437.08.~~"

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

27 "(c) Application. – This section applies only to land acquired in counties  
28 designated as an ~~enterprise tier one or enterprise tier two~~ development tier one area  
29 under G.S. ~~105-129.3, 143B-437.08.~~"

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

31 "(b) Application. – This section applies only to land acquired in counties  
32 designated as an ~~enterprise tier one or enterprise tier two~~ development tier one area  
33 under G.S. ~~105-129.3, 143B-437.08.~~"

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

35 "(e) Application. – This section applies only to land acquired in counties  
36 designated as an ~~enterprise tier one or enterprise tier two~~ development tier one area  
37 under G.S. ~~105-129.3, 143B-437.08.~~"

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

39 "(c) If an inspector declares a residential building or nonresidential building or  
40 structure to be unsafe under subsection (b) of this section, the inspector must affix a  
41 notice of the unsafe character of the structure to a conspicuous place on the exterior wall  
42 of the building. For the purposes of this section, the term "community development  
43 target area" means an area that has characteristics of a ~~development zone under~~  
44 ~~G.S. 105-129.3A,~~ an urban progress zone under G.S. 143B-437.09, a 'nonresidential

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

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

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

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

14 "(a) A taxpayer is eligible for the credit allowed in this Article if it satisfies the  
15 requirements of G.S. ~~105-129.4(b), (b2), (b3), and (b4)~~ 105-129.73(c), (d), (e), and (f)  
16 relating to wage standard, health insurance, environmental impact, and safety and health  
17 programs, respectively."

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

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

23 ...

24 (24) To furnish the Department of Commerce and the Employment Security  
25 Commission a copy of the qualifying information required in  
26 G.S. ~~105-129.7(b).~~ 105-129.7(b) or 105-129.76(b).

27 ...

28 (27) To publish the information required under G.S. 105-129.6,  
29 105-129.19, 105-129.26, 105-129.38, 105-129.44, 105-129.65A,  
30 105-129.75, 105-130.41, 105-130.45, 105-151.22, and 105-164.14.

31 ...

32 (36) To furnish the Department of Commerce with the information needed  
33 to complete the studies required under G.S. 105-129.2A and  
34 G.S. 105-129.72."

35 **SECTION 2.22.** This part becomes effective January 1, 2007.

36  
37 **PART III. EFFECTIVE DATES.**

38 **SECTION 3.1.** Except as otherwise provided, this act is effective when it  
39 becomes law.