

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 1553*

Short Title: Bill Lee Changes.

(Public)

Sponsors: Senator Hoyle.

Referred to: Finance.

May 18, 2006

1 A BILL TO BE ENTITLED
2 AN ACT TO REPLACE THE TAX CREDITS GENERALLY AVAILABLE UNDER
3 THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT
4 WITH MORE NARROWLY FOCUSED CREDITS FOR JOB CREATION AND
5 BUSINESS INVESTMENT.

6 The General Assembly of North Carolina enacts:

7
8 **PART I. REPLACEMENT OF BILL LEE ACT**

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

11 "Article 3H.

12 "Tax Credits for Growing Businesses.

13 "**§ 105-129.70. Legislative findings.**

14 The General Assembly finds that:

15 (1) It is the policy of the State of North Carolina to stimulate economic
16 activity and to create new jobs for the citizens of the State by
17 encouraging and promoting the expansion of existing business and
18 industry within the State and by recruiting and attracting new business
19 and industry to the State.

20 (2) Both short-term and long-term economic trends at the State, national,
21 and international levels have made the successful implementation of
22 the State's economic development policy and programs both more
23 critical and more challenging; and the decline in the State's traditional
24 industries, and the resulting adverse impact upon the State and its
25 citizens, have been exacerbated in recent years by adverse national and
26 State economic trends that contribute to the reduction in the State's
27 industrial base and that inhibit the State's ability to sustain or attract
28 new and expanding businesses.

- 1 (3) The economic condition of the State is not static and recent changes in
2 the State's economic condition have created economic distress that
3 requires a reevaluation of certain existing State programs and the
4 enactment of a new program as provided in this Article that is
5 designed to stimulate new economic activity and to create new jobs
6 within the State.
- 7 (4) The enactment of this Article is necessary to stimulate the economy
8 and create new jobs in North Carolina; and this Article will promote
9 the general welfare and confer, as its primary purpose and effect,
10 benefits on citizens throughout the State through the creation of new
11 jobs, an enlargement of the overall tax base, an expansion and
12 diversification of the State's industrial base, and an increase in revenue
13 to the State and its political subdivisions.
- 14 (5) The purpose of this Article is to stimulate economic activity and to
15 create new jobs within the State.
- 16 (6) The State is in need of a focused tax credit program that encourages
17 and facilitates economic growth and development within the State.
- 18 (7) The resources of the State are not evenly distributed throughout the
19 State and different communities have different abilities and needs in
20 attracting and maintaining new and expanding business and industry.

21 **§ 105-129.71. Definitions.**

22 The following definitions apply in this Article:

- 23 (1) Aircraft maintenance and repair. – The provision of specialized
24 maintenance or repair services for commercial aircraft or the
25 rebuilding of commercial aircraft.
- 26 (2) Air courier services. – The furnishing of air delivery of individually
27 addressed letters and packages for compensation, in interstate
28 commerce, except by the United States Postal Service.
- 29 (3) Business property. – Tangible personal property that is used in a
30 business and capitalized under the Code.
- 31 (4) Company headquarters. – A corporate, subsidiary, or regional
32 managing office, as defined by NAICS in United States industry
33 551114, that is responsible for strategic or organizational planning and
34 decision making for the business on an international, national, or
35 multistate regional basis.
- 36 (5) Cost. – In the case of property owned by the taxpayer, cost is
37 determined pursuant to regulations adopted under section 1012 of the
38 Code. In the case of property the taxpayer leases from another, cost is
39 value as determined pursuant to G.S. 105-130.4(j)(2).
- 40 (6) Customer service call center. – The provision of support service by a
41 business to its customers by telephone or other electronic means to
42 support products or services of the business. For the purposes of this
43 definition, an establishment is primarily engaged in providing support
44 services by telephone or other electronic means only if at least sixty

- 1 percent (60%) of its calls are incoming or at least sixty percent (60%)
2 of its other electronic communications are initiated by its customers.
- 3 (7) Development tier. – The classification assigned to an area pursuant to
4 G.S. 143B-437.08.
- 5 (8) Electronic shopping and mail order houses. – An industry in electronic
6 shopping and mail order houses industry group 4541 as defined by
7 NAICS.
- 8 (9) Establishment. – Defined in 29 C.F.R § 1904.46, as it existed on
9 January 1, 2002.
- 10 (10) Full-time job. – A position that requires at least 1,600 hours of work
11 per year and is intended to be held by one employee during the entire
12 year. A full-time employee is an employee who holds a full-time job.
- 13 (11) Hub. – Defined in G.S. 105-164.3.
- 14 (12) Information technology and services. – An industry in one of the
15 following:
- 16 a. Internet service providers, Web search portals, and data
17 processing subsector 518 as defined by NAICS.
- 18 b. Software publishers industry group 5112 as defined by NAICS.
- 19 c. Computer systems design and related services industry group
20 5415 as defined by NAICS.
- 21 (13) Reserved.
- 22 (14) Manufacturing. – An industry in manufacturing sectors 31 through 33,
23 as defined by NAICS, but not including quick printing or retail
24 bakeries.
- 25 (15) Motorsports facility. – A motorsports racetrack classified in the United
26 States racetrack national industry 711212, as defined by NAICS.
- 27 (16) Motorsports racing team. – A professional racing team primarily
28 engaged in the research and development, design, manufacture, repair,
29 maintenance, and operation of motor vehicles used in live motorsports
30 racing events before a paying audience.
- 31 (17) NAICS. – The North American Industry Classification System adopted
32 by the United States Office of Management and Budget as of
33 December 31, 2002.
- 34 (18) New job. – A full-time job that represents a net increase in the number
35 of the taxpayer's employees statewide. A new employee is an
36 employee who holds a new job. The term does not include a job
37 currently located in this State that is transferred to the business from a
38 related member of the business.
- 39 (19) Overdue tax debt. – Defined in G.S. 105-243.1.
- 40 (20) Purchase. – Defined in section 179 of the Code.
- 41 (21) Related entity. – Defined in G.S. 105-130.7A.
- 42 (22) Research and development. – An industry in scientific research and
43 development services industry group 5417 as defined by NAICS.

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

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

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

7 **"§ 105-129.72. Sunset; studies.**

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

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

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

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

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

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

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

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

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

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

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

37 **"§ 105-129.73. Eligibility; forfeiture.**

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

43 (1) Aircraft maintenance and repair.

44 (2) Air courier services hub.

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

3 (4) Customer service call centers.

4 (5) Electronic shopping and mail order houses.

5 (6) Information technology and services.

6 (7) Manufacturing.

7 (8) Motorsports facility.

8 (9) Motorsports racing team.

9 (10) Research and development.

10 (11) Warehousing.

11 (12) Wholesale trade.

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

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

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

42 (d) Health Insurance. – A taxpayer is eligible for a credit under this Article only
43 if the taxpayer provides health insurance for all of the full-time jobs at the establishment
44 with respect to which the credit is claimed when the taxpayer engages in the activity

1 that qualifies for the credit. For the purposes of this subsection, a taxpayer provides
2 health insurance if it pays at least fifty percent (50%) of the premiums for health care
3 coverage that equals or exceeds the minimum provisions of the basic health care plan of
4 coverage recommended by the Small Employer Carrier Committee pursuant to
5 G.S. 58-50-125.

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

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

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

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

37 (h) Expiration. – If, during the period that installments of a credit under this
38 Article accrue, the taxpayer is no longer engaged in one of the types of business
39 described in subsection (a) of this section, the credit expires. If, during the period that
40 installments of a credit under this Article accrue, the number of jobs of an eligible
41 business falls below the minimum number required under subsection (a) of this section,
42 any credit associated with that business expires. When a credit expires, the taxpayer
43 may not take any remaining installments of the credit. The taxpayer may, however, take
44 the portion of an installment that accrued in a previous year and was carried forward to

1 the extent permitted under G.S. 105-129.74. A change in the development tier
2 designation of the location of an establishment does not result in expiration of a credit
3 under this Article.

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

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

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

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

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

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

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

41 (k) Advisory Ruling. – A taxpayer may request in writing from the Secretary of
42 Revenue specific advice regarding eligibility for a credit under this Article.
43 G.S. 105-264 governs the effect of this advice. A taxpayer may not legally rely upon

1 advice offered by any other State or local government official or employee acting in an
2 official capacity regarding eligibility for a credit under this Article.

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

13 **"§ 105-129.74. Tax election; cap; carryforwards; limitations.**

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

20 (b) Cap. – The credits allowed under this Article may not exceed fifty percent
21 (50%) of the cumulative amount of taxes against which they may be claimed for the
22 taxable year, reduced by the sum of all other credits allowed against those taxes, except
23 tax payments made by or on behalf of the taxpayer. This limitation applies to the
24 cumulative amount of credit, including carryforwards, claimed by the taxpayer under
25 this Article for the taxable year.

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

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

40 **"§ 105-129.75. Fees and reports.**

41 (a) Fee. – When filing a return for a taxable year in which the taxpayer engaged
42 in activity for which the taxpayer is eligible for a credit under this Article, the taxpayer
43 shall pay the Department of Revenue a fee of five hundred dollars (\$500.00) for each
44 type of credit the taxpayer claims or intends to claim with respect to an establishment.

1 The fee is due at the time the return is due for the taxable year in which the taxpayer
2 engaged in the activity for which the taxpayer is eligible for a credit. No credit is
3 allowed under this Article for a taxable year until all outstanding fees have been paid.
4 Fees collected under this section shall be credited to the General Fund.

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

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

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

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

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

15 **§ 105-129.76. Substantiation.**

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

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

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

33 (2) The type of business with respect to which the credit is claimed and
34 the average weekly wage at the establishment with respect to which
35 the credit is claimed.

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

38 **§ 105-129.77. Credit for creating jobs.**

39 (a) Credit. – A taxpayer that meets the eligibility requirements set out in
40 G.S. 105-129.73 and satisfies the threshold requirement for new job creation in this
41 State under subsection (b) of this section during the taxable year is allowed a credit for
42 creating jobs. The amount of the credit for each new job created is set out in the table
43 below and is based on the development tier designation of the county in which the job is
44 located. If the job is located in an urban progress zone, the amount of the credit is

1 increased by one thousand dollars (\$1,000) per job. In addition, if a job located in an
 2 urban progress zone is filled by a resident of that zone, the amount of the credit is
 3 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

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

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

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

29 (d) Installments. – The credit may not be taken in the taxable year in which the
 30 new jobs are created. Instead, the credit shall be taken in equal installments over the
 31 four years following the taxable year in which the new jobs were created and is
 32 conditional upon the continued maintenance of those jobs by the taxpayer. If, in one of
 33 the four years in which the installment of a credit accrues, a job is no longer filled, the
 34 credit with respect to that job expires and the taxpayer may not take any remaining
 35 installment of the credit with respect to that job. If, in one of the years in which the
 36 installment of a credit accrues, the number of the taxpayer's full-time employees falls
 37 below the sum of the applicable threshold and the number of full-time employees the
 38 taxpayer had in the year before the year in which the taxpayer qualified for the credit,
 39 the credits with respect to all of the new jobs expire, and the taxpayer may not take any
 40 remaining installments of the credits. When a credit expires under this subsection, the
 41 taxpayer may, however, take the portion of an installment that accrued in a previous
 42 year and was carried forward to the extent permitted under G.S. 105-129.74.

43 (e) Transferred Jobs. – Jobs transferred from one area in the State to another area
 44 in the State are not considered new jobs for purposes of this section. Jobs that were

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

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

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

19 **"§ 105-129.78. Credit for investing in business property.**

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

35 (b) Eligible Investment Amount. – The eligible investment amount is the lesser
 36 of (i) the cost of the eligible business property and (ii) the amount by which the cost of
 37 all of the taxpayer's eligible business property that is in service in this State on the last
 38 day of the taxable year exceeds the cost of all of the taxpayer's eligible business
 39 property that was in service in this State on the last day of the base year. The base year
 40 is that year, of the three immediately preceding taxable years, in which the taxpayer had
 41 the most eligible business property in service in this State.

42 (c) Threshold. – The applicable threshold is the appropriate amount set out in the
 43 following table based on the development tier where the eligible business property is
 44 placed in service during the taxable year. If the taxpayer places business property in

1 service in an urban progress zone, the applicable threshold is the one for a development
 2 tier one area. If the taxpayer places eligible business property in service at more than
 3 one establishment in a county during the taxable year, the threshold applies to the
 4 aggregate amount of eligible business property placed in service during the taxable year
 5 at all establishments in the county. If the taxpayer places eligible business property in
 6 service at establishments in different counties, the threshold applies separately to the
 7 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

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

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

39 (e) Transferred Property. – If, in one of the four years in which the installment of
 40 a credit accrues, the business property with respect to which the credit was claimed is
 41 moved to a county in a higher-numbered development tier or to an urban progress zone,
 42 the remaining installments of the credit are allowed only to the extent they would have
 43 been allowed if the business property had been placed in service initially in the area to
 44 which it was moved. If, in one of the four years in which the installment of a credit

1 accrues, the business property with respect to which a credit was claimed is moved to a
2 county in a lower-numbered development tier or an urban progress zone, the remaining
3 installments of the credit shall be calculated as if the business property had been placed
4 in service initially in the area to which it was moved.

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

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

12 **"§ 105-129.79. Credit for investment in real property.**

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

39 (b) Determination by the Secretary of Commerce. – A taxpayer is eligible for the
40 credit allowed under this section with respect to an establishment only if the Secretary
41 of Commerce makes a written determination that the taxpayer is expected to purchase or
42 lease and use in an eligible business at that establishment within a three-year period at
43 least ten million dollars (\$10,000,000) of real property and that the establishment that is
44 the subject of the credit will create at least 200 new jobs within two years of the time

1 that the property is first used in an eligible business. If the taxpayer fails to timely make
2 the required level of investment or fails to timely create the required number of new
3 jobs, the taxpayer forfeits the credit as provided in G.S. 105-129.73.

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

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

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

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

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

29 **"§ 143B-437.08. Development tier designation.**

30 (a) Tiers Defined. – A development tier one area is a county whose annual
31 ranking is one of the 40 highest in the State. A development tier two area is a county
32 whose annual ranking is one of the next 40 highest in the State. A development tier
33 three area is a county that is not in a lower-numbered development tier.

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

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

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

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

4 (4) The county's rank in a ranking of counties by adjusted assessed
5 property value per capita, from highest to lowest, for the most recent
6 taxable year.

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

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

21 (e) Exception for Certain Small Counties. – Regardless of the actual
22 development factor, any county that has a population of less than 12,000 shall
23 automatically be ranked one of the 40 highest counties, and any county that has a
24 population of less than 50,000 shall automatically be ranked one of the 80 highest
25 counties.

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

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

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

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

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

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

42 (h) Exception for Certain Multijurisdictional Industrial Parks. – An eligible
43 industrial park created by interlocal agreement under G.S. 158-7.4 has the lowest

1 development tier designation of the designations of the counties in which it is located if
2 all of the following conditions are satisfied:

- 3 (1) The industrial park is located, at one or more sites, in four or more
4 contiguous counties.
- 5 (2) At least two of the counties in which the industrial park is located are
6 development tier one areas.
- 7 (3) The industrial park is owned by four or more units of local government
8 or a nonprofit corporation owned or controlled by four or more units of
9 local government.
- 10 (4) In each county in which the industrial park is located, the park has at
11 least 300 developable acres. For the purposes of this subdivision,
12 'developable acres' includes acreage that is owned directly by the
13 industrial park or its owners or that is the subject of a development
14 agreement between the industrial park or its owners and a third-party
15 owner.
- 16 (5) The total population of all of the counties in which the industrial park
17 is located is less than 200,000.
- 18 (6) In each county in which the industrial park is located, at least sixteen
19 and eight-tenths percent (16.8%) of the population was Medicaid
20 eligible for the 2003-2004 fiscal year based on 2003 population
21 estimates.

22 **"§ 143B-437.09. Urban progress zone designation.**

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

- 26 (1) All land within the zone is located in whole within the primary
27 corporate limits of a municipality with a population of more than
28 10,000 according to the most recent annual population estimates
29 certified by the State Budget Officer.
- 30 (2) Every census tract and census block group that composes part of the
31 zone meets at least one of the following conditions:
 - 32 a. More than twenty percent (20%) of its population is below the
33 poverty level according to the most recent federal decennial
34 census.
 - 35 b. At least seventy-five percent (75%) of its area is zoned as
36 commercial and industrial and it is adjacent to a census tract or
37 block group of which at least twenty percent (20%) of the
38 population is below the poverty level.
- 39 (3) The area of the zone zoned as commercial and industrial does not
40 exceed thirty-five percent (35%) of the total area of the zone.
- 41 (4) The combined area of all zones in the municipality less the smallest
42 census tract included in the zones does not exceed ten percent (10%)
43 of the total area of the municipality in which the zones are located.
- 44 (5) No census tract or block group may be in more than one zone.

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

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

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

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

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

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

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

19 **SECTION 1.4.** There is appropriated from the General Fund to the
20 Department of Revenue the sum of one hundred twenty thousand dollars (\$120,000) for
21 the 2006-2007 fiscal year to perform functions related to the administration of Article
22 3H of Chapter 105 of the General Statutes. There is appropriated from the General
23 Fund to the Department of Commerce the sum of forty thousand dollars (\$40,000) for
24 the 2006-2007 fiscal year to perform functions related to the administration of Article
25 3H of Chapter 105 of the General Statutes.

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

30 **PART II. CONFORMING CHANGES**

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

32 "(a) Qualified North Carolina Research Expenses. – A taxpayer that has qualified
33 North Carolina research expenses for the taxable year is allowed a credit equal to a
34 percentage of the expenses, determined as provided in this subsection. Only one credit
35 is allowed under this subsection with respect to the same expenses. If more than one
36 subdivision of this subsection applies to the same expenses, then the credit is equal to
37 the higher percentage, not both percentages combined. If part of the taxpayer's qualified
38 North Carolina research expenses qualifies under subdivision (2) of this subsection and
39 the remainder qualifies under subdivision (3) of this subsection, the applicable
40 percentages apply separately to each part of the expenses.

41 (1) Small business. – If the taxpayer was a small business as of the last
42 day of the taxable year, the applicable percentage is three percent
43 (3%).

- 1 (2) Low-tier research. – For expenses with respect to research performed
 2 in an ~~enterprise tier one, two, or three~~ development tier one area, the
 3 applicable percentage is three percent (3%).
 4 (3) Other research. – For expenses not covered under subdivision (1) or
 5 (2) of this subsection, the percentages provided in the table below
 6 apply to the taxpayer's qualified North Carolina research expenses
 7 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% "

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

9
 10
 11
 12
 13 "(h) Low Enterprise or Development Tier Machinery. – Eligible taxpayers are
 14 allowed an annual refund of sales and use taxes paid under this Article as provided in
 15 this subsection.

- 16 (1) Refunds. – An eligible person is allowed an annual refund of sales and
 17 use taxes paid by it under this Article at the general rate of tax on
 18 eligible machinery and equipment it purchases for use in an enterprise
 19 tier one area or an enterprise tier two area, as defined in
 20 G.S. ~~405-129.3~~.105-129.3 or a development tier one area, as defined in
 21 G.S. ~~143B-437.08~~. Liability incurred indirectly by the taxpayer for
 22 sales and use taxes on these items is considered tax paid by the
 23 taxpayer. A request for a refund must be in writing and must include
 24 any information and documentation required by the Secretary. A
 25 request for a refund is due within six months after the end of the State's
 26 fiscal year. Refunds applied for after the due date are barred.
 27 (2) Eligibility. – A person is eligible for the refund provided in this
 28 subsection if it is engaged primarily in one of the businesses listed in
 29 G.S. 105-129.4(a) in an enterprise tier one area or an enterprise tier
 30 two area, as defined in G.S. ~~405-129.3~~.105-129.3 or if it is engaged
 31 primarily in one of the businesses listed in G.S. 105-129.73(a) in a
 32 development tier one area, as defined in G.S. 143B-437.08.
 33 (3) Machinery and equipment. – For the purpose of this subsection, the
 34 term 'machinery and equipment' means engines, machinery,
 35 equipment, tools, and implements used or designed to be used in one
 36 of the businesses listed in G.S. ~~405-129.4(a)~~.105-129.4(a) or
 37 105-129.73(a). Machinery and equipment are eligible for the refund
 38 provided in this subsection if the taxpayer places them in service in an
 39 enterprise tier one area or an enterprise tier two area, as defined in
 40 G.S. ~~405-129.3~~.105-129.3, or a development tier one area, as defined
 41 in G.S. 143B-437.08, capitalizes them for tax purposes under the
 42 Code, and does not lease them to another party."

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

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

3 ...

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

6 a. It is primarily engaged in one of the industries listed in this
7 subsection.

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

24 **SECTION 2.4.** Reserved.

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

26 "**§ 143B-437.04. Community development block grants.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

If the district in which such a project will occur is outside a city's central business district (as that district is defined by resolution of the city council, which definition is binding and conclusive), then, of the private development forecast for a development project by the development financing plan for the district in which the project will occur, a maximum of twenty percent (20%) of the plan's estimated square footage of floor space may be proposed for use in retail sales, hotels, banking, and financial services offered directly to consumers, and other commercial uses other than office space. The twenty percent (20%) limitation in the preceding sentence does not apply to

1 development financing districts located in ~~an enterprise~~ a development
2 tier one area, as defined in G.S. ~~105-129.3, 143B-437.08~~ and created
3 primarily for tourism-related economic development, such as
4 developments featuring facilities for exhibitions, athletic and cultural
5 events, show and public gatherings, racing facilities, parks and
6 recreation facilities, art galleries, museums, and art centers.

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

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

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

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

19 (1) Fifty percent (50%) of the monies available in the Spay/Neuter
20 Account shall be reserved for reimbursement for eligible applicants
21 within ~~enterprise tier one, two, and three~~ development tier one areas as
22 defined in G.S. ~~105-129.3, 143B-437.08~~. The remaining fifty percent
23 (50%) of the funds shall be used to fund reimbursement requests from
24 eligible applicants in ~~enterprise tier four and five~~ development tier two
25 and three areas as defined in G.S. ~~105-129.3, 143B-437.08~~.

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

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

42 (4) Should funds remain available from the fifty percent (50%) of the
43 Spay/Neuter Account designated for ~~enterprise tier one, two, or~~
44 ~~three~~ development tier one areas after reimbursement of all claims by

1 eligible applicants in those areas, the remaining funds shall be made
2 available to reimburse eligible applicants in ~~enterprise tier four and~~
3 ~~five~~ development tier two and three areas."

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

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

16 **SECTION 2.13.** Reserved.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 ...

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

23 ...

24 (27) To publish the information required under G.S. 105-129.6,
25 105-129.19, 105-129.26, 105-129.38, 105-129.44, 105-129.65A,
26 105-129.75, 105-130.41, 105-130.45, 105-151.22, and 105-164.14.

27 ...

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

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

32 **PART III. EFFECTIVE DATES.**

33 **SECTION 3.1.** Except as otherwise provided, this act is effective when it
34 becomes law.
35