

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 316\*  
Finance Committee Substitute Adopted 3/12/97  
Third Edition Engrossed 4/3/97  
House Committee Substitute Favorable 4/23/97

Short Title: Amend Bill Lee Act/AB.

(Public)

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Sponsors:

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Referred to:

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March 5, 1997

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS  
3 EXPANSION ACT.

4 The General Assembly of North Carolina enacts:

5 Section 1. Article 3A of Chapter 105 of the General Statutes reads as  
6 rewritten:

7 **"ARTICLE 3A.**

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

9 **"§ 105-129.2. (Repealed effective January 1, 2002 – see note) Definitions.**

10 The following definitions apply in this Article:

11 (1) ~~Cost.—Defined in section 179 of the Code.~~ Air courier services. – Defined  
12 in the Standard Industrial Classification manual issued by the United  
13 States Office of Management and Budget.

14 (1a) Central administrative office. – Defined in the Standard Industrial  
15 Classification manual issued by the United States Office of  
16 Management and Budget.

- 1           **(lb)** Cost. Determined pursuant to regulations adopted under section 1012  
2           of the Code.
- 3           **(2)** Data processing. – Defined in the Standard Industrial Classification  
4           Manual issued by the United States ~~Bureau of the Census.~~ Office of  
5           Management and Budget.
- 6           **(3)** Enterprise tier. – The classification assigned to an area pursuant to G.S.  
7           105-129.3.
- 8           **(3a)** Enterprise zone. – The classification assigned to an area pursuant to  
9           G.S. 105-129.3A.
- 10          **(4)** Full-time job. – A position that requires at least 1,600 hours of work per  
11          year and is intended to be held by one employee during the entire year.  
12          A full-time employee is an employee who holds a full-time job.
- 13          **(5)** Machinery and equipment. – Engines, machinery, tools, and implements  
14          that are capitalized by the taxpayer for tax purposes under the Code and  
15          are used or designed to be used in manufacturing or processing,  
16          warehousing and distribution, or data processing. The term does not  
17          include real property as defined in G.S. 105-273 or rolling stock as  
18          defined in G.S. 105-333.
- 19          **(6)** Manufacturing and processing. – Defined in the Standard Industrial  
20          Classification Manual issued by the United States ~~Bureau of the Census.~~  
21          Office of Management and Budget.
- 22          **(7)** Purchase. – Defined in section 179 of the Code.
- 23          **(8)** Warehousing and distribution. – Defined in the Standard Industrial  
24          Classification Manual issued by the United States ~~Bureau of the Census.~~  
25          Office of Management and Budget.

26 **"§ 105-129.3. (Repealed effective January 1, 2002) Enterprise tier designation.**

27          **(a)** Tiers Defined. – An enterprise tier one area is a county whose enterprise factor  
28          is one of the 10 highest in the State. An enterprise tier two area is a county whose  
29          enterprise factor is one of the next 15 highest in the State. An enterprise tier three area is  
30          a county whose enterprise factor is one of the next 25 highest in the State. An enterprise  
31          tier four area is a county whose enterprise factor is one of the next 25 highest in the State.  
32          An enterprise tier five area is any area that is not in a lower-numbered enterprise tier.

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

- 36                  **(1)** The county's rank in a ranking of counties by average rate of  
37                  unemployment from lowest to ~~highest.~~ highest, for the preceding three  
38                  years.
- 39                  **(2)** The county's rank in a ranking of counties by average per capita income  
40                  from highest to ~~lowest.~~ lowest, for the preceding three years.
- 41                  **(3)** The county's rank in a ranking of counties by percentage growth in  
42                  population from highest to lowest.

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

5 In measuring rates of unemployment and per capita income, the Secretary shall use  
6 the latest available data published by a State or federal agency generally recognized as  
7 having expertise concerning the data. In measuring population growth, the Secretary shall  
8 use the most recent estimates of population certified by the State Planning Officer.

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

13 **"§ 105-129.3A. Enterprise zone designation.**

14 (a) Enterprise Zone Defined. – An enterprise zone is a census tract or a group of  
15 two or more contiguous census tracts in the most recent federal decennial census that  
16 meets all of the following conditions:

17 (1) It is located in whole or in part in a city with a population of 10,000 or  
18 more according to the most recent annual population estimates certified  
19 by the State Planning Officer.

20 (2) It has a population of 3,000 or more according to the most recent annual  
21 population estimates certified by the State Planning Officer.

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

24 (b) Annual Designation. – On or before December 31 of each year, the Secretary  
25 of Commerce shall identify all enterprise zones that meet the conditions of subsection (a)  
26 of this section. The Secretary of Commerce shall provide this information to the  
27 Secretary of Revenue. An enterprise zone designation is effective only for the calendar  
28 year following the designation.

29 (c) Relationship with Enterprise Tiers. – An enterprise zone is in an enterprise tier  
30 one area, regardless of what tier the county in which it is located is assigned.

31 **"§ 105-129.4. (Repealed effective January 1, 2002) Eligibility; forfeiture.**

32 (a) Type of Business. – A taxpayer is eligible for a credit allowed by this Article if  
33 the taxpayer engages in manufacturing or processing, warehousing or distributing, or data  
34 processing, and the jobs with respect to which a credit is claimed are created in that  
35 business, the machinery and equipment with respect to which a credit is claimed are used  
36 in that business, and the research and development for which a credit is claimed are  
37 carried out as part of that business.

38 (b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs or the  
39 credit for worker training if the jobs for which the credit is claimed meet the wage  
40 standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the  
41 credit for investing in machinery and equipment or the credit for research and  
42 development if the jobs at the location with respect to which the credit is claimed meet  
43 the wage standard at the time the taxpayer applies for the credit. Jobs meet the wage

1 standard if they pay an average weekly wage that is at least ten percent (10%) above the  
2 average weekly wage paid in the county in which the jobs will be located. In calculating the  
3 average weekly wage of jobs, positions that pay a wage or salary at a rate that exceeds one  
4 hundred thousand dollars (\$100,000) a year shall be excluded. For the purpose of this  
5 subsection, the average wage in a county is the average wage for all insured industries in the  
6 county as computed by the Employment Security Commission for the most recent period for  
7 which data are available. equal to the applicable percentage times the applicable average  
8 weekly wage for the county in which the jobs will be located, as computed by the  
9 Secretary of Commerce from data compiled by the Employment Security Commission  
10 for the most recent period for which data are available. The applicable percentage for  
11 jobs located in an enterprise tier one area is one hundred percent (100%). The applicable  
12 percentage for all other jobs is one hundred ten percent (110%). The applicable average  
13 weekly wage is the lowest of the following: (i) the average wage for all insured private  
14 employers in the county, (ii) the average wage for all insured private employers in the  
15 State, and (iii) the average wage for all insured private employers in the county  
16 multiplied by the county income/wage adjustment factor. The county income/wage  
17 adjustment factor is the county income/wage ratio divided by the State income/wage  
18 ratio. The county income/wage ratio is average per capita income in the county divided  
19 by the annualized average wage for all insured private employers in the county. The  
20 State income/wage ratio is the average per capita income in the State divided by the  
21 annualized average wage for all insured private employers in the State.

22 (c) Worker Training. – A taxpayer is eligible for the tax credit for worker training  
23 only for training workers who occupy jobs for which the taxpayer is eligible to claim an  
24 installment of the credit for creating jobs or which are full-time positions at a location  
25 with respect to which the taxpayer is eligible to claim an installment of the credit for  
26 investing in machinery and equipment for the taxable year.

27 The credit for worker training is allowed only with respect to employees in positions  
28 not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. § 213(a)(1) and  
29 for expenditures for training that would be eligible for expenditure or reimbursement  
30 under the Department of Community Colleges' New and Expanding Industry Program, as  
31 determined by guidelines adopted by the State Board of Community Colleges. The credit  
32 is not allowed for expenditures that are paid or reimbursed by the New and Expanding  
33 Industry Program. To establish eligibility, the taxpayer must obtain as part of the  
34 application process under G.S. 105-129.6 the certification of the Department of  
35 Community Colleges that the taxpayer's planned worker training would satisfy the  
36 requirements of this paragraph. A taxpayer shall apply to the Department of Community  
37 Colleges for this certification. The application must be on a form provided by the  
38 Department of Community Colleges, must provide a detailed plan of the worker training  
39 to be provided, and must contain any information required by the Department of  
40 Community Colleges to determine whether the requirements of this paragraph will be  
41 satisfied. If the Department of Community Colleges determines that the planned worker  
42 training meets the requirements of this paragraph, the Department of Community  
43 Colleges shall issue a certificate describing the location with respect to which the credit is

1 claimed and stating that the planned worker training meets the requirements of this  
2 paragraph. The State Board of Community Colleges may adopt rules in accordance with  
3 Chapter 150B of the General Statutes that are needed to carry out its responsibilities  
4 under this paragraph.

5 (d) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the  
6 taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. A  
7 taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a  
8 result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed  
9 from the date the taxes would have been due if the credit had not been allowed. The past  
10 taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails  
11 to pay the past taxes and interest by the due date is subject to the penalties provided in  
12 G.S. 105-236. If a taxpayer forfeits the credit for creating jobs or the credit for investing  
13 in machinery and equipment, the taxpayer also forfeits any credit for worker training  
14 claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the  
15 location with respect to which the credit for investing in machinery and equipment was  
16 claimed.

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

23 **"§ 105-129.5. (Repealed effective January 1, 2002) Tax election; cap.**

24 (a) Tax Election. – The credits provided in this Article are allowed against the  
25 franchise tax levied in Article 3 of this Chapter and the income taxes levied in Article 4  
26 of this Chapter. The taxpayer shall elect the tax against which a credit will be claimed  
27 when filing the application for the credit, filing the return on which the first installment of  
28 the credit is claimed. This election is binding. Any carryforwards of the credit must be  
29 claimed against the same ~~tax elected in the application tax.~~

30 (b) Cap. – The credits allowed under this Article may not exceed fifty percent  
31 (50%) of the tax against which they are claimed for the taxable year, reduced by the sum  
32 of all other credits allowed against that tax, except tax payments made by or on behalf of  
33 the taxpayer. This limitation applies to the cumulative amount of credit, including  
34 carryforwards, claimed by the taxpayer under this Article against each tax for the taxable  
35 year. Any unused portion of the credit may be carried forward for the succeeding five  
36 years.

37 **"§ 105-129.6. (Repealed effective January 1, 2002) Application; reports.**

38 (a) Application. – To claim the credits allowed by this Article, the taxpayer must  
39 provide with the tax return the certification of the Secretary of Commerce that the  
40 taxpayer meets all of the eligibility requirements of G.S. 105-129.4 with respect to each  
41 credit. A taxpayer shall apply to the Secretary of Commerce for certification of  
42 eligibility. The application must be on a form provided by the Secretary of ~~Commerce,~~  
43 ~~must specify the credit and the tax against which it will be claimed,~~ Commerce and must

1 contain any information necessary for the Secretary of Commerce to determine whether  
 2 the taxpayer meets the eligibility requirements. If the Secretary determines that the  
 3 taxpayer meets all of the eligibility requirements of G.S. 105-129.4 with respect to a  
 4 credit, the Secretary shall issue a certificate describing the location with respect to which  
 5 the credit is claimed, ~~specifying the tax against which the credit will be claimed,~~ outlining the  
 6 eligibility requirements for the credit, and stating that the taxpayer meets the eligibility  
 7 requirements. If the Secretary determines that the taxpayer does not meet all of the  
 8 eligibility requirements of G.S. 105-129.4 with respect to a credit, the Secretary must  
 9 advise the taxpayer in writing of the eligibility requirements the taxpayer fails to meet.  
 10 The Secretary of Commerce may adopt rules in accordance with Chapter 150B of the  
 11 General Statutes that are needed to carry out the Secretary of Commerce's responsibilities  
 12 under this section.

13 (b) Reports. – The Department of Commerce shall report to the Department of  
 14 Revenue and to the Fiscal Research Division of the General Assembly by May 1 of each  
 15 year the following information for the 12-month period ending the preceding April 1:

- 16 (1) The number of applications for each credit allowed in this Article.  
 17 (2) The number and enterprise tier area of new jobs with respect to which  
 18 credits were applied for.  
 19 (3) The cost of machinery and equipment with respect to which credits were  
 20 applied for.

21 **"§ 105-129.7. (Repealed effective January 1, 2002) Substantiation.**

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

29 **"§ 105-129.8. (Repealed effective January 1, 2002) Credit for creating jobs.**

30 (a) Credit. – A taxpayer that meets the eligibility requirements set out in G.S. 105-  
 31 129.4, has five or more employees for at least 40 weeks during the taxable year, and hires  
 32 an additional full-time employee during that year to fill a position located in this State is  
 33 allowed a credit for creating a new full-time job. The amount of the credit for each new  
 34 full-time job created is set out in the table below and is based on the enterprise tier of the  
 35 area in which the position is located:

36 Area Enterprise Tier	Amount of Credit
37 Tier One	\$12,500
38 Tier Two	4,000
39 Tier Three	3,000
40 Tier Four	1,000
41 Tier Five	500

42 A position is located in an area if more than fifty percent (50%) of the employee's  
 43 duties are performed in the area. The credit may not be taken in the taxable year in which

1 the additional employee is hired. Instead, the credit shall be taken in equal installments  
2 over the four years following the taxable year in which the additional employee was hired  
3 and shall be conditioned on the continued employment by the taxpayer of the number of  
4 full-time employees the taxpayer had upon hiring the employee that caused the taxpayer  
5 to qualify for the credit.

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

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

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

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

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

33 (e), (f) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3 for  
34 taxable years beginning on or after January 1, 1996.

35 **"§ 105-129.9. (Repealed effective January 1, 2002) Credit for investing in machinery  
36 and equipment.**

37 (a) Credit. – ~~A~~ If a taxpayer that has purchased or leased machinery and equipment  
38 ~~and places it in service in this State during the taxable year-year, the taxpayer is allowed a~~  
39 ~~credit equal to seven percent (7%) of the excess of the eligible investment amount over~~  
40 ~~the applicable threshold. The credit may not be taken for the taxable year in which the~~  
41 ~~equipment is placed in service but shall be taken in equal installments over the seven~~  
42 ~~years following the taxable year in which the equipment is placed in service.~~

1 (b) Eligible Investment Amount. – The eligible investment amount is the lesser of  
2 (i) the cost of the machinery and equipment and (ii) the amount by which the cost of all  
3 of the taxpayer's machinery and equipment that is in service in this State on the last day  
4 of the taxable year exceeds the cost of all of the taxpayer's machinery and equipment that  
5 was in service in this State on the last day of the base year. The base year is that year, of  
6 the three immediately preceding taxable years, in which the taxpayer had the most  
7 machinery and equipment in service in this State.

8 (c) Threshold. – The applicable threshold is the appropriate amount set out in the  
9 following table based on the enterprise tier of the area where the machinery and  
10 equipment are placed in service during the taxable year. If the taxpayer places machinery  
11 and equipment in service in more than one area during the taxable year, the threshold  
12 applies separately to the machinery and equipment placed in service in each area.

13 Area Enterprise Tier	Threshold
14 Tier One	\$ -0-
15 Tier Two	100,000
16 Tier Three	200,000
17 Tier Four	500,000
18 Tier Five	1,000,000

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

25 If, in one of the seven years in which the installment of a credit accrues, the  
26 machinery and equipment with respect to which the credit was claimed are moved to an  
27 area in a higher-numbered enterprise tier, the remaining installments of the credit are  
28 allowed only to the extent they would have been allowed if the machinery and equipment  
29 had been placed in service initially in the area to which they were moved.

30 (e) Planned Expansion. – A taxpayer that signs a letter of commitment with the  
31 Department of Commerce to place specific machinery and equipment in service in an  
32 area within two years after the date the letter is signed may, in the year the machinery and  
33 equipment are placed in service in that area, calculate the credit for which the taxpayer  
34 qualifies based on the area's enterprise tier for the year the letter was signed. All other  
35 conditions apply to the credit, but if the area has been redesignated to a higher-numbered  
36 enterprise tier after the year the letter of commitment was signed, the credit is allowed  
37 based on the area's enterprise tier for the year the letter was signed. If the taxpayer does  
38 not place part or all of the specified machinery and equipment in service within the two-  
39 year period, the taxpayer does not qualify for the benefit of this subsection with respect to  
40 the machinery and equipment not placed in service within the two-year period. However,  
41 if the taxpayer qualifies for a credit in the year the machinery and equipment are placed  
42 in service, the taxpayer may take the credit for that year as if no letter of commitment had  
43 been signed pursuant to this subsection.



1 **"§ 105-129.10. (Repealed effective January 1, 2002) Credit for research and**  
2 **development.**

3 A taxpayer that claims for the taxable year a federal income tax credit under section  
4 41 of the Code for increasing research activities is allowed a credit equal to five percent  
5 (5%) of the State's apportioned share of the taxpayer's expenditures for increasing  
6 research activities. The State's apportioned share of a taxpayer's expenditures for  
7 increasing research activities is the excess of the taxpayer's qualified research expenses  
8 for the taxable year over the base amount, as determined under section 41 of the Code,  
9 multiplied by a percentage equal to the ratio of the taxpayer's qualified research expenses  
10 in this State for the taxable year to the taxpayer's total qualified research expenses for the  
11 taxable year. As used in this section, the terms "qualified research expenses" and "base  
12 amount" have the meaning provided in section 41 of the Code.

13 **"§ 105-129.11. (Repealed effective January 1, 2002) Credit for worker training.**

14 (a) Credit. – A taxpayer that provides worker training for five or more of its  
15 eligible employees during the taxable year is allowed a credit equal to fifty percent (50%)  
16 of its eligible expenditures for the training. For positions located in an enterprise tier one  
17 area, the credit may not exceed one thousand dollars (\$1,000) per employee trained  
18 during the taxable year. For other positions, the credit may not exceed five hundred  
19 dollars (\$500.00) per employee trained during the taxable year. A position is located in an  
20 area if more than fifty percent (50%) of the employee's duties are performed in the area.

21 (b) Eligibility. – The eligibility of a taxpayer's expenditures and employees is  
22 determined as provided in G.S. 105-129.4.

23 **"§ 105-129.12. (Repealed effective January 1, 2002) Credit for investing in central**  
24 **administrative office property.**

25 (a) Credit. – If a taxpayer that has purchased or leased real property in this State  
26 begins to use the property as a central administrative office during the taxable year, the  
27 taxpayer is allowed a credit under this Article. In the case of property that is purchased,  
28 the amount of the credit is equal to seven percent (7%) of the costs of the property. In the  
29 case of property that is leased, the amount of the credit is equal to seven percent (7%) of  
30 the taxpayer's lease payments over a seven-year period plus expenditures made by the  
31 taxpayer to improve the property before it is used as the taxpayer's central administrative  
32 office, but only if the expenditures are not reimbursed or credited by the lessor. The  
33 maximum credit allowed a taxpayer under this section for property used as a central  
34 administrative office is five hundred thousand dollars (\$500,000). The entire credit may  
35 not be taken for the taxable year in which the property is first used as a central  
36 administrative office but shall be taken in equal installments over the seven years  
37 following the taxable year in which the property is first used as a central administrative  
38 office.

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

1 (c) Expiration. – If, in one of the seven years in which the installment of a credit  
2 accrues, the property with respect to which the credit was claimed is no longer used as a  
3 central administrative office, the credit expires and the taxpayer may not take any  
4 remaining installment of the credit. The taxpayer may, however, take the portion of an  
5 installment that accrued in a previous year and was carried forward to the extent  
6 permitted under G.S. 105-129.5.

7 If, in one of the seven years in which the installment of a credit accrues, part of the  
8 property with respect to which the credit was claimed is no longer used as a central  
9 administrative office, the remaining installments of the credit shall be reduced by the  
10 fraction described in subsection (b) of this section. The taxpayer may, however,  
11 take the portion of an installment that accrued in a previous year and was carried forward  
12 to the extent permitted under G.S. 105-129.5."

13 "Section 2. G.S. 105-129.3(a) reads as rewritten:

14 "(a) Tiers Defined. – An enterprise tier one area is an enterprise zone or a county  
15 whose enterprise factor is one of the 10 highest in the State. An enterprise tier two area is  
16 a county whose enterprise factor is one of the next 15 highest in the State. An enterprise  
17 tier three area is a county whose enterprise factor is one of the next 25 highest in the  
18 State. An enterprise tier four area is a county whose enterprise factor is one of the next 25  
19 highest in the State. An enterprise tier five area is any area that is not in a lower-  
20 numbered enterprise tier."

21 Section 3. G.S. 105-129.4(a), as amended by Section 1 of this act, reads as  
22 rewritten:

23 "(a) Type of Business. – A taxpayer is eligible for a credit allowed by G.S. 105-  
24 129.12 if the real property for which the credit is claimed is used for a central  
25 administrative office that employs at least 40 people. A taxpayer is eligible for a credit  
26 the other credits allowed by this Article if the taxpayer engages in ~~manufacturing or~~  
27 ~~processing, warehousing or distributing, or data processing, one of the following types of~~  
28 ~~businesses~~ and the jobs with respect to which a credit is claimed are created in that  
29 business, the machinery and equipment with respect to which a credit is claimed are used  
30 in that business, and the research and development for which a credit is claimed are  
31 carried out as part of that ~~business.~~ business:

32 (1) Air courier services.

33 (2) Central administrative office that employs at least 40 people.

34 (3) Data processing.

35 (4) Manufacturing or processing.

36 (5) Warehousing or distribution."

37 Section 4. G.S. 105-129.4(b), as amended by Section 1 of this act, reads as  
38 rewritten:

39 "(b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs or the  
40 credit for worker training if the jobs for which the credit is claimed are located in an  
41 enterprise tier one area or meet the wage standard at the time the taxpayer applies for the  
42 credit. A taxpayer is eligible for the credit for investing in machinery and ~~equipment or~~  
43 equipment, the credit for research and ~~development.~~ development, or the credit for

1 investing in real property for a central administrative office if the jobs at the location with  
2 respect to which the credit is claimed are located in an enterprise tier one area or meet the  
3 wage standard at the time the taxpayer applies for the credit. Jobs meet the wage standard  
4 if they pay an average weekly wage that is at least ten percent (10%) above the  
5 applicable average weekly wage for the county in which the jobs will be located, as  
6 computed by the Secretary of Commerce from data compiled by the Employment  
7 Security Commission for the most recent period for which data are available. The  
8 applicable average weekly wage is the lowest of the following: (i) the average wage for  
9 all insured private employers in the county, (ii) the average wage for all insured private  
10 employers in the State, and (iii) the average wage for all insured private employers in the  
11 county multiplied by the county income/wage adjustment factor. The county  
12 income/wage adjustment factor is the county income/wage ratio divided by the State  
13 income/wage ratio. The county income/wage ratio is average per capita income in the  
14 county divided by the annualized average wage for all insured private employers in the  
15 county. The State income/wage ratio is the average per capita income in the State  
16 divided by the annualized average wage for all insured private employers in the State."

17 Section 5. Article 3B of Chapter 105 of the General Statutes reads as  
18 rewritten:

19 **"ARTICLE 3B.**

20 **"BUSINESS TAX CREDIT.**

21 **"§ 105-129.15. (Repealed effective January 1, 2002) Definitions.**

22 The following definitions apply in this Article:

- 23 (1) Business property. – Tangible personal property that is used by the  
24 taxpayer in connection with a business or for the production of income  
25 and is capitalized by the taxpayer for tax purposes under the Code. The  
26 term does not include, however, a luxury passenger automobile taxable  
27 under section 4001 of the Code or a watercraft used principally for  
28 entertainment and pleasure outings for which no admission is charged.
- 29 (2) Cost. — ~~Defined~~ Determined pursuant to regulations adopted under  
30 section 1012 of the Code, subject to the limitation on cost provided in  
31 section 179 of the Code.
- 32 (3) Purchase. – Defined in section 179 of the Code.

33 **"§ 105-129.16. (Repealed effective January 1, 2002) Credit for investing in business**  
34 **property.**

35 (a) Credit. — ~~A~~ If a taxpayer that has purchased or leased business property and  
36 places it in service in this State during the taxable year-year, the taxpayer is allowed a  
37 credit equal to four and one-half percent (4.5%) of the cost of the property. The  
38 maximum credit allowed a taxpayer for property placed in service during a taxable year is  
39 four thousand five hundred dollars (\$4,500). The entire credit may not be taken for the  
40 taxable year in which the property is placed in service but must be taken in five equal  
41 installments beginning with the taxable year in which the property is placed in service.

42 (b) Expiration. – If, in one of the five years in which the installment of a credit  
43 accrues, the business property with respect to which the credit was claimed is ~~sold~~

1 disposed of, taken out of service, or moved out of State, the credit expires and the  
2 taxpayer may not take any remaining installment of the credit. The taxpayer may,  
3 however, take the portion of an installment that accrued in a previous year and was  
4 carried forward to the extent permitted under G.S. 105-129.17.

5 (c) No Double Credit. – A taxpayer that claims the credit allowed under Article  
6 3A of this Chapter with respect to business property may not take the credit allowed in  
7 this section with respect to the same property.

8 **"§ 105-129.17. (Repealed effective January 1, 2002) Tax election; cap.**

9 (a) Tax Election. – The credit allowed in this Article is allowed against the  
10 franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of  
11 this Chapter. The taxpayer must elect the tax against which the credit will be claimed  
12 when filing the return on which the first installment of the credit is claimed. This election  
13 is binding. Any carryforwards of the credit must be claimed against the same tax.

14 (b) Cap. – The credit allowed in this Article may not exceed fifty percent (50%) of  
15 the tax against which it is claimed for the taxable year, reduced by the sum of all other  
16 credits allowed against that tax, except tax payments made by or on behalf of the  
17 taxpayer. This limitation applies to the cumulative amount of credit, including  
18 carryforwards, claimed by the taxpayer under this Article against each tax for the taxable  
19 year. Any unused portion of the credit may be carried forward for the succeeding five  
20 years.

21 **"§ 105-129.18. (Repealed effective January 1, 2002) Substantiation.**

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

29 **"§ 105-129.19. (Repealed effective January 1, 2002) Reports.**

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

- 33 (1) The number of taxpayers that claimed the credit allowed in this Article.
- 34 (2) The cost of business property with respect to which credits were  
35 claimed.
- 36 (3) The total cost to the General Fund of the credits claimed."

37 Section 6. G.S. 105-129.3(c), as enacted by this act, is effective when this act  
38 becomes law and, notwithstanding G.S. 105-129.3(b), applies retroactively to  
39 designations for the 1997 and later calendar years; the other amendments to G.S. 105-  
40 129.3 made by this act are effective when this act becomes law and apply to designations  
41 for the 1998 and later calendar years. The amendments to G.S. 105-129.5 and G.S. 105-  
42 129.6 made by this act are effective for taxable years beginning on or after January 1,  
43 1996. G.S. 105-129.3A, 105-129.9(e), and 105-129.12, as enacted by Section 1 of this

1 act, and Sections 2, 3, and 4 of this act become effective for taxable years beginning on or  
2 after January 1, 1998. The remainder of this act is effective for taxable years beginning  
3 on or after January 1, 1997.