

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 1215*

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

Sponsors: Senators Jenkins, Blue, Brunstetter, Hartsell, Hoyle, Stein, and Tillman.

Referred to: Finance.

May 19, 2010

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

5 The General Assembly of North Carolina enacts:

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

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

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

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

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

28 "**§ 105-129.19. Reports.**Report.

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

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

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



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

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

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

12 "**§ 105-129.29. Sunset.**

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

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

15 "**§ 105-129.38. Reports.Report.**

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

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

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

25 "**§ 105-129.39. Sunset.**

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

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

29 "**§ 105-129.44. Report.**

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

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

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

38 "**§ 105-129.54. Reports.Report.**

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

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

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

48 "**§ 105-129.75A. Report.**

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

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

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

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

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

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

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

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

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

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

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

18 "**§ 105-129.98. Reports.—Report.**

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

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

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

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

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

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

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

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

32 (2a) The amount of the charges attributable to imports.

33 (2b) The amount of the charges attributable to exports.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (4) Reserved.

30 (5) Reserved.

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

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

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

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

49 (8) Reserved.

50 (9) Reserved.

51 (10) Reserved.

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

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

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

4 (1) The facility is located in an area that, at the time the owner began
5 construction of the facility, was an enterprise tier one area pursuant to
6 G.S. 105-129.3.

7 (2) The Secretary of Commerce has certified that the owner will, by the end of
8 the fourth year after the year the owner begins construction of the recycling
9 facility, invest at least three hundred million dollars (\$300,000,000) in the
10 facility and create at least 250 new, full-time jobs at the facility.

11 (3) The jobs at the recycling facility meet the wage standard in effect pursuant
12 to G.S. 105-129.4(b) as of the date the owner begins construction of the
13 facility.

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

16 (1) ~~The facility is located in an area that, at the time the owner began~~
17 ~~construction of the facility, was an enterprise tier one area pursuant to~~
18 ~~G.S. 105-129.3.~~

19 (2) ~~The Secretary of Commerce has certified that the owner will, by the end of~~
20 ~~the second year after the year the owner begins construction of the recycling~~
21 ~~facility, invest at least one hundred fifty million dollars (\$150,000,000) in~~
22 ~~the facility and create at least 155 new, full-time jobs at the facility.~~

23 (3) ~~The jobs at the recycling facility meet the wage standard in effect pursuant~~
24 ~~to G.S. 105-129.4(b) as of the date the owner begins construction of the~~
25 ~~facility.~~

26 ...

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

30 (1) The number and location of ~~large and~~ major recycling facilities qualified
31 under this Article.

32 (2) The number of new jobs created by each recycling facility.

33 (3) The amount of investment in each recycling facility.

34 (4) The amount of credits taken under this Article.

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

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

43"

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

45 **PART III: CONFORMING CHANGES**

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

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

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

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

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

13 **"§ 105-129.2. Definitions.**

14 The following definitions apply in this Article:

15 ...

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

23"

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

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

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

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

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

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

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

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

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

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

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

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

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

...

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

...

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

...

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

...

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

...

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

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

PART IV: EFFECTIVE DATE

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