

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  
Fifth Edition Engrossed 5/13/97

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 (Repealed effective January 1, 2002 – see note) Definitions.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. The  
5 Secretary of Commerce shall also determine which enterprise tier four areas and  
6 enterprise tier five areas have a population of less than 50,000 and shall provide this  
7 information to the Secretary of Revenue.

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

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

17 **"§ 105-129.3A. Enterprise zone designation.**

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

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

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

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

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

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

35 **"§ 105-129.4. (Repealed effective January 1, 2002) Eligibility; forfeiture.**

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

42 (b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs or the  
43 credit for worker training if the jobs for which the credit is claimed meet the wage

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

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

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

1 Community Colleges to determine whether the requirements of this paragraph will be  
2 satisfied. If the Department of Community Colleges determines that the planned worker  
3 training meets the requirements of this paragraph, the Department of Community  
4 Colleges shall issue a certificate describing the location with respect to which the credit is  
5 claimed and stating that the planned worker training meets the requirements of this  
6 paragraph. The State Board of Community Colleges may adopt rules in accordance with  
7 Chapter 150B of the General Statutes that are needed to carry out its responsibilities  
8 under this paragraph.

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

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

27 **"§ 105-129.5. (Repealed effective January 1, 2002) Tax election; cap.**

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

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

41 **"§ 105-129.6. (Repealed effective January 1, 2002) Application; reports.**

42 (a) Application. – To claim the credits allowed by this Article, the taxpayer must  
43 provide with the tax return the certification of the Secretary of Commerce that the

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

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

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

25 **"§ 105-129.7. (Repealed effective January 1, 2002) Substantiation.**

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

33 **"§ 105-129.8. (Repealed effective January 1, 2002) Credit for creating jobs.**

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

40 Area Enterprise Tier	Amount of Credit
41 Tier One	\$12,500
42 Tier Two	4,000
43 Tier Three	3,000

1 Tier Four 1,000  
2 Tier Five 500

3 A position is located in an area if more than fifty percent (50%) of the employee's  
4 duties are performed in the area. The credit may not be taken in the taxable year in which  
5 the additional employee is hired. Instead, the credit shall be taken in equal installments  
6 over the four years following the taxable year in which the additional employee was hired  
7 and shall be conditioned on the continued employment by the taxpayer of the number of  
8 full-time employees the taxpayer had upon hiring the employee that caused the taxpayer  
9 to qualify for the credit.

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

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

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

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

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

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

39 **"§ 105-129.9. (Repealed effective January 1, 2002) Credit for investing in machinery  
40 and equipment.**

41 (a) Credit. —~~A~~If a taxpayer that has purchased or leased machinery and equipment  
42 ~~and~~ places it in service in this State during the taxable ~~year-year~~, the taxpayer is allowed a  
43 credit equal to seven percent (7%) of the excess of the eligible investment amount over

1 the applicable threshold. The credit may not be taken for the taxable year in which the  
2 equipment is placed in service but shall be taken in equal installments over the seven  
3 years following the taxable year in which the equipment is placed in service.

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

11 (c) Threshold. – The applicable threshold is the appropriate amount set out in the  
12 following table based on the enterprise tier of the area where the machinery and  
13 equipment are placed in service during the taxable year. If the machinery and equipment  
14 is placed in service in an enterprise tier four or five area that has a population of less than  
15 50,000, however, the applicable threshold is two hundred thousand dollars (\$200,000)  
16 rather than the amount set out in the table. If the taxpayer places machinery and  
17 equipment in service in more than one area during the taxable year, the threshold applies  
18 separately to the machinery and equipment placed in service in each area.

19 Area Enterprise Tier	Threshold
20 Tier One	\$ -0-
21 Tier Two	100,000
22 Tier Three	200,000
23 Tier Four	500,000
24 Tier Five	1,000,000

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

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

36 (e) Planned Expansion. – A taxpayer that signs a letter of commitment with the  
37 Department of Commerce to place specific machinery and equipment in service in an  
38 area within two years after the date the letter is signed may, in the year the machinery and  
39 equipment are placed in service in that area, calculate the credit for which the taxpayer  
40 qualifies based on the area's enterprise tier for the year the letter was signed. All other  
41 conditions apply to the credit, but if the area has been redesignated to a higher-numbered  
42 enterprise tier after the year the letter of commitment was signed, the credit is allowed  
43 based on the area's enterprise tier for the year the letter was signed. If the taxpayer does



1 not place part or all of the specified machinery and equipment in service within the two-  
2 year period, the taxpayer does not qualify for the benefit of this subsection with respect to  
3 the machinery and equipment not placed in service within the two-year period. However,  
4 if the taxpayer qualifies for a credit in the year the machinery and equipment are placed  
5 in service, the taxpayer may take the credit for that year as if no letter of commitment had  
6 been signed pursuant to this subsection.

7 **"§ 105-129.10. (Repealed effective January 1, 2002) Credit for research and**  
8 **development.**

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

19 **"§ 105-129.11. (Repealed effective January 1, 2002) Credit for worker training.**

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

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

29 **"§ 105-129.12. (Repealed effective January 1, 2002) Credit for investing in central**  
30 **administrative office property.**

31 (a) Credit. – If a taxpayer that has purchased or leased real property in this State  
32 begins to use the property as a central administrative office during the taxable year, the  
33 taxpayer is allowed a credit equal to seven percent (7%) of the eligible investment  
34 amount. The eligible investment amount is the lesser of (i) the cost of the property and  
35 (ii) the amount by which the cost of all of the property the taxpayer is using in this State  
36 as central administrative offices on the last day of the taxable year exceeds the cost of all  
37 of the property the taxpayer was using in this State as central administrative offices on  
38 the last day of the base year. The base year is that year, of the three immediately  
39 preceding taxable years, in which the taxpayer was using the most property in this State  
40 as central administrative offices. In the case of property that is leased, the cost of the  
41 property is considered to be the taxpayer's lease payments over a seven-year period, plus  
42 any expenditures made by the taxpayer to improve the property before it is used as the  
43 taxpayer's central administrative office if the expenditures are not reimbursed or credited

1 by the lessor. The maximum credit allowed a taxpayer under this section for property  
2 used as a central administrative office is five hundred thousand dollars (\$500,000). The  
3 entire credit may not be taken for the taxable year in which the property is first used as a  
4 central administrative office but shall be taken in equal installments over the seven years  
5 following the taxable year in which the property is first used as a central administrative  
6 office. The basis in any real property for which a credit is allowed under this section  
7 shall be reduced by the amount of credit allowable.

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

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

19 If, in one of the seven years in which the installment of a credit accrues, part of the  
20 property with respect to which the credit was claimed is no longer used as a central  
21 administrative office, the remaining installments of the credit shall be reduced by the  
22 fraction described in subsection (b) of this section. The taxpayer may, however,  
23 take the portion of an installment that accrued in a previous year and was carried forward  
24 to the extent permitted under G.S. 105-129.5. If, in one of the seven years in which the  
25 installment of a credit accrues, the total number of employees the taxpayer employs at all  
26 of its central administrative offices in this State drops by 40 or more, the credit expires  
27 and the taxpayer may not take any remaining installment of the credit. The taxpayer may,  
28 however, take the portion of an installment that accrued in a previous year and was  
29 carried forward to the extent permitted under G.S. 105-129.5."

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

31 "(a) Tiers Defined. – An enterprise tier one area is an enterprise zone or a county  
32 whose enterprise factor is one of the 10 highest in the State. An enterprise tier two area is  
33 a county whose enterprise factor is one of the next 15 highest in the State. An enterprise  
34 tier three area is a county whose enterprise factor is one of the next 25 highest in the  
35 State. An enterprise tier four area is a county whose enterprise factor is one of the next 25  
36 highest in the State. An enterprise tier five area is any area that is not in a lower-  
37 numbered enterprise tier."

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

40 "(a) Type of Business. – A taxpayer is eligible for a credit allowed by G.S. 105-  
41 129.12 if the real property for which the credit is claimed is used for a central  
42 administrative office that employs at least 40 people. A taxpayer is eligible for a credit  
43 the other credits allowed by this Article if the taxpayer engages in manufacturing or

1 ~~processing, warehousing or distributing, or data processing, one of the following types of~~  
2 ~~businesses~~ and the jobs with respect to which a credit is claimed are created in that  
3 business, the machinery and equipment with respect to which a credit is claimed are used  
4 in that business, and the research and development for which a credit is claimed are  
5 carried out as part of that ~~business.~~ business:

6 (1) Air courier services.

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

8 (3) Data processing.

9 (4) Manufacturing or processing.

10 (5) Warehousing or distribution."

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

13 "(b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs or the  
14 credit for worker training if the jobs for which the credit is claimed are located in an  
15 enterprise tier one area or meet the wage standard at the time the taxpayer applies for the  
16 credit. A taxpayer is eligible for the credit for investing in machinery and ~~equipment or~~  
17 ~~equipment,~~ the credit for research and ~~development~~–development, or the credit for  
18 investing in real property for a central administrative office if the jobs at the location with  
19 respect to which the credit is claimed are located in an enterprise tier one area or meet the  
20 wage standard at the time the taxpayer applies for the credit. Jobs meet the wage standard  
21 if they pay an average weekly wage that is at least ten percent (10%) above the  
22 applicable average weekly wage for the county in which the jobs will be located, as  
23 computed by the Secretary of Commerce from data compiled by the Employment  
24 Security Commission for the most recent period for which data are available. The  
25 applicable average weekly wage is the lowest of the following: (i) the average wage for  
26 all insured private employers in the county, (ii) the average wage for all insured private  
27 employers in the State, and (iii) the average wage for all insured private employers in the  
28 county multiplied by the county income/wage adjustment factor. The county  
29 income/wage adjustment factor is the county income/wage ratio divided by the State  
30 income/wage ratio. The county income/wage ratio is average per capita income in the  
31 county divided by the annualized average wage for all insured private employers in the  
32 county. The State income/wage ratio is the average per capita income in the State  
33 divided by the annualized average wage for all insured private employers in the State."

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

36 **"ARTICLE 3B.**

37 **"BUSINESS TAX CREDIT.**

38 **"§ 105-129.15. (Repealed effective January 1, 2002) Definitions.**

39 The following definitions apply in this Article:

- 40 (1) Business property. – Tangible personal property that is used by the  
41 taxpayer in connection with a business or for the production of income  
42 and is capitalized by the taxpayer for tax purposes under the Code. The  
43 term does not include, however, a luxury passenger automobile taxable

1 under section 4001 of the Code or a watercraft used principally for  
2 entertainment and pleasure outings for which no admission is charged.

3 (2) Cost. — ~~Defined~~ Determined pursuant to regulations adopted under  
4 section 1012 of the Code, subject to the limitation on cost provided in  
5 section 179 of the Code.

6 (3) Purchase. — Defined in section 179 of the Code.

7 **"§ 105-129.16. (Repealed effective January 1, 2002) Credit for investing in business**  
8 **property.**

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

16 (b) Expiration. — If, in one of the five years in which the installment of a credit  
17 accrues, the business property with respect to which the credit was claimed is ~~set~~  
18 disposed of, taken out of service, or moved out of State, the credit expires and the  
19 taxpayer may not take any remaining installment of the credit. The taxpayer may,  
20 however, take the portion of an installment that accrued in a previous year and was  
21 carried forward to the extent permitted under G.S. 105-129.17.

22 (c) No Double Credit. — A taxpayer that claims the credit allowed under Article  
23 3A of this Chapter with respect to business property may not take the credit allowed in  
24 this section with respect to the same property. A taxpayer may not take the credit  
25 allowed in this section for business property the taxpayer leases from another unless the  
26 taxpayer obtains the lessor's written certification that the lessor will not capitalize the  
27 property for tax purposes under the Code and the lessor will not claim the credit allowed  
28 in this section with respect to the property.

29 **"§ 105-129.17. (Repealed effective January 1, 2002) Tax election; cap.**

30 (a) Tax Election. — The credit allowed in this Article is allowed against the  
31 franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of  
32 this Chapter. The taxpayer must elect the tax against which the credit will be claimed  
33 when filing the return on which the first installment of the credit is claimed. This election  
34 is binding. Any carryforwards of the credit must be claimed against the same tax.

35 (b) Cap. — The credit allowed in this Article may not exceed fifty percent (50%) of  
36 the tax against which it is claimed for the taxable year, reduced by the sum of all other  
37 credits allowed against that tax, except tax payments made by or on behalf of the  
38 taxpayer. This limitation applies to the cumulative amount of credit, including  
39 carryforwards, claimed by the taxpayer under this Article against each tax for the taxable  
40 year. Any unused portion of the credit may be carried forward for the succeeding five  
41 years.

42 **"§ 105-129.18. (Repealed effective January 1, 2002) Substantiation.**

1 To claim the credit allowed by this Article, the taxpayer must provide any information  
2 required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article  
3 must maintain and make available for inspection by the Secretary of Revenue any records  
4 the Secretary considers necessary to determine and verify the amount of the credit to  
5 which the taxpayer is entitled. The burden of proving eligibility for the credit and the  
6 amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer  
7 that fails to maintain adequate records or to make them available for inspection.

8 **"§ 105-129.19. (Repealed effective January 1, 2002) Reports.**

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

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

16 Section 6. The Legislative Research Commission shall, through its Revenue  
17 Laws Study Committee, study the effect of the tax incentives provided in the William S.  
18 Lee Quality Jobs and Business Expansion Act, codified as Articles 3A and 3B of Chapter  
19 105 of the General Statutes. The Commission shall study the effect of the incentives on  
20 tax equity, particularly whether existing North Carolina businesses are receiving fewer  
21 benefits than out-of-State businesses that locate to North Carolina. The Commission  
22 shall also examine data on economic recruitment for the period 1994 - 1997 by county,  
23 by industry type, by business size, and by other relevant categories to determine the  
24 patterns of business locations and expansions before and after enactment of the William  
25 S. Lee tax incentives. The Commission shall study all other available information to  
26 measure the direct benefits of the incentives, their direct costs, and their indirect effect on  
27 the State. The Commission shall report its findings and recommendations to the 1998  
28 Regular Session of the 1997 General Assembly.

29 Section 7. G.S. 105-129.3(c), as enacted by this act, is effective when this act  
30 becomes law and, notwithstanding G.S. 105-129.3(b), applies retroactively to  
31 designations for the 1997 and later calendar years; the other amendments to G.S. 105-  
32 129.3 made by this act are effective when this act becomes law and apply to designations  
33 for the 1998 and later calendar years. The amendments to G.S. 105-129.5 and G.S. 105-  
34 129.6 made by this act are effective for taxable years beginning on or after January 1,  
35 1996. G.S. 105-129.3A, 105-129.9(e), and 105-129.12, as enacted by Section 1 of this  
36 act, and Sections 2, 3, and 4 of this act become effective for taxable years beginning on or  
37 after January 1, 1998. Section 6 of this act is effective when this act becomes law. The  
38 remainder of this act is effective for taxable years beginning on or after January 1, 1997.