GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H **D**

HOUSE DRH30659-SVxz-20B* (04/17)

Short Title:	Sunset Recycling Facility Credits.	(Public)
Sponsors:	Representatives Wainwright, Gibson (Primary Sponsors); Brubaker, Hill, McComas, and McGee.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO PLACE A SUNSET ON THE CREDIT FOR INVESTING IN A LARGE OR MAJOR RECYCLING FACILITY AND TO EXTEND THE CREDIT FOR REINVESTMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.27 is amended by adding a new subsection to read:

"(g) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2014."

SECTION 2. Section 19 of S.L. 1998-55 is repealed.

SECTION 3. G.S. 105-129.28 reads as rewritten:

"**§ 105-129.28. Credit for reinvestment.**

(a) Credit. – A major recycling facility that is accessible by neither ocean barge nor ship and that transports materials to the facility or products away from the facility is allowed a credit against the tax imposed by Part 1 of Article 4 of this Chapter equal to its additional transportation and transloading expenses incurred with respect to the materials and products due to its inability to use ocean barges or ships. The additional expenses for which credit is allowed are expenses due to using river barges and expenses due to having to use another mode of transportation because the quantity that is transported by river barge is insufficient to meet the facility's needs. In order to claim the credit allowed by this section, the facility must provide the Secretary of Commerce audited documentation of the amount of its additional transportation and transloading expenses incurred during the taxable year.

(b) Cap. – The credit allowed to a major recycling facility under this section for the taxable year may not exceed ten million four hundred thousand dollars ($10,400,000).~~the applicable annual cap provided in the following table:~~

~~Taxable Year~~	~~Cap~~
~~1998~~	~~$ 150,000~~
~~1999~~	~~$ 640,000~~
~~2000~~	~~$ 3,860,000~~
~~2001~~	~~$ 8,050,000~~
~~2002~~	~~$ 9,550,000~~
~~2003~~	~~$10,100,000~~
~~2004-2007~~	~~$10,400,000~~

(c) Reduction. – ~~For the first ten taxable years after the owner begins transporting materials and products to and from the major recycling facility, the~~ The credit allowed by this section must be reduced by the amount of credit allowed in previous years that was used for a purpose other than an allowable purpose under subsection (d) of this section, as certified by the Secretary of Commerce.

(d) Use of Credited Amount. – ~~For the first ten taxable years after the owner begins construction of the major recycling facility, the~~ The owner must use the amount of credit allowed under this section to pay for (i) investment in rail or roads associated with the facility, (ii) investment in water system infrastructure designed to reduce the expense of transporting materials and products to and from the recycling facility, and (iii) investment in land and infrastructure for other industrial sites located in the same county as the recycling facility. If the owner determines that there are no reasonable economic opportunities in a given year to use the total amount of credit for the expenditures described above, the owner may use the excess for investment at or in connection with the recycling facility.~~facility above the initial required investment of three hundred million dollars ($300,000,000).~~

Expenses incurred for the purposes allowed in this subsection during a taxable year ~~in the ten-year period~~ may be counted toward a credit allowed in a later taxable year. ~~year in the ten-year period.~~ If the owner is not able to use the full amount of the credit during a taxable year for any of the purposes allowed by this subsection, the excess may be used for these purposes in subsequent taxable years.

The owner must provide the Secretary of Commerce with annual audited documentation demonstrating that the amount of credit received under this section during the previous twelve-month period has not been used for a purpose inconsistent with this subsection. If the Secretary of Commerce determines that the owner has used any of the credit for a purpose that is inconsistent with the requirements of this subsection, the Secretary of Commerce ~~shall~~ must certify the amount so used to the Secretary of ~~Revenue~~ Revenue, and the credit allowed the owner under this section for the following taxable year ~~shall be~~ is reduced by that amount in accordance with subsection (c) of this section.

~~After the end of the ten-year period, the amount of any credit allowed under this section that has not yet been used may be used for investment at or in connection with the recycling facility above the initial required investment of three hundred million dollars ($300,000,000).~~

(e) Credit Refundable. – If the credit allowed by this section exceeds the amount of tax imposed by Part 1 of Article 4 of this Chapter for the taxable year reduced by the sum of all credits allowable, the Secretary ~~shall~~ must refund the excess to the taxpayer. The refundable excess is considered an overpayment by the taxpayer. ~~governed by the provisions governing a refund of an overpayment by the taxpayer of the tax imposed in Part 1 of Article 4 of this Chapter.~~ In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before refundable credits.

(f) Sunset. – This section expires for taxable years beginning on or after January 1, 2014."

SECTION 4. This act is effective when it becomes law.