

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE DRH60036-RBxz-54A* (05/05)

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

Sponsors: Representatives McComas; Brubaker, Carney, Gibson, Hill, Howard, Luebke, McGee, Wainwright, Weiss, and Womble.

Referred to:

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.



1 (2a) Repealed by Session Laws 2002-87, s. 6, effective August 22, 2002.

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

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

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

8 (1) The number and location of large and major recycling facilities qualified
9 under this Article.

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

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

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

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

15 **"§ 105-129.29. Sunset.**

16 This Article is repealed for taxable years beginning on or after January 1, 2018."

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

18 **"§ 105-129.38. 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 ~~for the~~
21 ~~12-month period ending the preceding December 31; itemized by taxpayer:~~

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

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

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

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

28 **"§ 105-129.39. Sunset.**

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

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

32 **"§ 105-129.44. Report.**

33 The Department of Revenue ~~must publish by May 1 of each year~~ must include in the
34 economic incentives report required by G.S. 105-256 the following information ~~for the~~
35 ~~12-month period ending the preceding December 31; itemized by taxpayer:~~

36 (1) The number of taxpayers that took the credit allowed in this Article.

37 (2) The location of each qualified North Carolina low-income building or
38 housing development for which a credit was taken.

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

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

41 **"§ 105-129.54. Reports-Report.**

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

45 (1) The number of taxpayers that took a credit allowed in this Article, itemized
46 by the categories of small business, low-tier, other, and university research.

47 (2) The amount of each credit taken in each category.

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

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

51 **"§ 105-129.75A. Report.**

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

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

7 **SECTION 1.10.** G.S. 105-129.85(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 and amount of credits generated and taken for each credit
13 allowed in this Article.
- 14 (2) The number and development tier area of new jobs with respect to which
15 credits were generated and to which credits were taken.
- 16 (3) The cost and development tier area of business property with respect to
17 which credits were generated and to which credits were taken.
- 18 (4) The cost and development tier area of real property investment with respect
19 to which credits were generated and to which credits were taken."

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

21 "**§ 105-129.98. Reports.—Report.**

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

- 25 (1) The number of taxpayers that claimed a credit allowed in this Article.
- 26 (2) The amount of each credit claimed and the taxes against which it was
27 applied.
- 28 (3) The total cost to the General Fund of the credits claimed."

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

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

- 33 (1) The number of taxpayers taking a credit allowed in this section.
- 34 (2) The total amount of charges assessed for the taxable year.
- 35 (2a) The amount of the charges attributable to imports.
- 36 (2b) The amount of the charges attributable to exports.
- 37 (3) The total cost to the General Fund of the credits taken."

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

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

- 42 (1) The number of taxpayers taking a credit allowed in this section.
- 43 (2) The total amount of exports with respect to which credits were taken.
- 44 (3) The total cost to the General Fund of the credits taken."

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

46 "(k) ~~Reports.—~~ Any corporation that takes a credit under this section must submit an
47 annual report by May 1 of each year to the Senate Finance Committee, the House of
48 Representatives Finance Committee, the Senate Appropriations Committee, the House of
49 Representatives Appropriations Committee, and the Fiscal Research Division of the General
50 Assembly. The report must state the amount of credit earned by the corporation during the
51 previous year, the amount of credit including carryforwards claimed by the corporation during

1 the previous year, and the percentage of domestic leaf content in cigarettes produced by the
2 corporation during the previous year. The first reports required under this section are due by
3 ~~May 1, 2006.~~ Report. – The Department must include in the economic incentives report
4 required by G.S. 105-256 the following information itemized by taxpayer:

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

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

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

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

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

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

- 25 (1) The number of taxpayers taking a credit allowed in this section.
- 26 (2) The total amount of charges assessed for the taxable year.
- 27 (2a) The amount of the charges attributable to imports.
- 28 (2b) The amount of the charges attributable to exports.
- 29 (3) The total cost to the General Fund of the credits taken."

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

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

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

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

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

45 **§ 105-164.14A. Economic incentive refunds.**

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

- 48 (1) Passenger air carrier. – An interstate passenger air carrier is allowed a refund
49 of the sales and use tax paid by it on fuel in excess of two million five
50 hundred thousand dollars (\$2,500,000). The amount of sales and use tax paid
51 does not include a refund allowed to the interstate passenger air carrier under

- 1 G.S. 105-164.14(a). This subdivision is repealed for purchases made on or
2 after January 1, 2011.
- 3 (2) Major recycling facility. – An owner of a major recycling facility is allowed
4 a refund of the sales and use tax paid by it on building materials, building
5 supplies, fixtures, and equipment that become a part of the real property of
6 the recycling facility. Liability incurred indirectly by the owner for sales and
7 use taxes on these items is considered tax paid by the owner. This
8 subdivision is repealed for purchases made on or after January 1, 2018.
- 9 (3) Business in low-tier area. – A taxpayer that is engaged primarily in one of
10 the businesses listed in G.S. 105-129.83(a) in a development tier one area
11 and that places machinery and equipment in service in that area is allowed a
12 refund of the sales and use tax paid by it on the machinery and equipment.
13 For purposes of this subdivision, "machinery and equipment" includes
14 engines, machinery, equipment, tools, and implements used or designed to
15 be used in one of the businesses listed in G.S. 105-129.83, capitalized for tax
16 purposes under the Code, and not leased to another party. Liability incurred
17 indirectly by the taxpayer for sales and use taxes on these items is
18 considered tax paid by the taxpayer. The sunset for Article 3J of Chapter 105
19 of the General Statutes for development tier one areas applies to this
20 subdivision.
- 21 (4) Motorsports team or sanctioning body. – A professional motorsports racing
22 team or a motorsports sanctioning body is allowed a refund of the sales and
23 use tax paid by it in this State on aviation fuel that is used to travel to or
24 from a motorsports event in this State, to travel to a motorsports event in
25 another state from a location in this State, or to travel to this State from a
26 motorsports event in another state. For purposes of this subdivision, a
27 "motorsports event" includes a motorsports race, a motorsports sponsor
28 event, and motorsports testing. This subdivision is repealed for purchases
29 made on or after January 1, 2011.
- 30 (5) Professional motorsports team. – A professional motorsports racing team is
31 allowed a refund of fifty percent (50%) of the sales and use tax paid by it in
32 this State on tangible personal property, other than tires or accessories, that
33 comprises any part of a professional motorsports vehicle. For purposes of
34 this subdivision, "motorsports accessories" includes instrumentation,
35 telemetry, consumables, and paint. This subdivision is repealed for
36 purchases made on or after January 1, 2014.
- 37 (6) Analytical services business. – A taxpayer engaged in analytical services in
38 this State is allowed a refund of sales and use tax paid by it. This subdivision
39 is repealed for purchases made on or after January 1, 2013. The amount of
40 the refund is the greater of the following:
- 41 a. Fifty percent (50%) of the eligible amount of sales and use tax paid
42 by it on tangible personal property that is consumed or transformed
43 in analytical service activities. The eligible amount of sales and use
44 tax paid by the taxpayer in this State is the amount by which sales
45 and use tax paid by the taxpayer in this State in the fiscal year exceed
46 the amount paid by the taxpayer in this State in the 2006-2007 State
47 fiscal year.
- 48 b. Fifty percent (50%) of the amount of sales and use tax paid by it in
49 the fiscal year on medical reagents.
- 50 (7) Railroad intermodal facility. – The owner or lessee of an eligible railroad
51 intermodal facility is allowed a refund of sales and use tax paid by it under

1 this Article on building materials, building supplies, fixtures, and equipment
2 that become a part of the real property of the facility. Liability incurred
3 indirectly by the owner or lessee of the facility for sales and use taxes on
4 these items is considered tax paid by the owner or lessee. This subdivision is
5 repealed for purchases made on or after January 1, 2038.

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

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

- 12 (1) The number of taxpayers claiming a refund allowed in this section.
- 13 (2) The total amount of purchases with respect to which refunds were claimed.
- 14 (3) The total cost to the General Fund of the refunds claimed."

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

17 **"§ 105-164.14B. Certain industrial facilities refunds.**

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

- 19 (1) Air courier services. – The furnishing of air delivery of individually
20 addressed letters and packages for compensation, except by the United
21 States Postal Service.
- 22 (2) Aircraft manufacturing. – The manufacturing or assembling of complete
23 aircraft or of aircraft engines, blisks, fuselage sections, flight decks, flight
24 deck systems or components, wings, fuselage fairings, fins, moving leading
25 and trailing wing edges, wing boxes, nose sections, tailplanes, passenger
26 doors, nacelles, thrust reversers, landing gear, braking systems, or any
27 combination of these.
- 28 (3) Bioprocessing. – Biomanufacturing or processing that includes the culture
29 of cells to make commercial products, the purification of biomolecules from
30 cells, or the use of these molecules in manufacturing.
- 31 (4) Reserved.
- 32 (5) Reserved.
- 33 (6) Facility. – A single building or structure or a group of buildings or structures
34 that are located on a single parcel of land or on contiguous parcels of land
35 under common ownership and any other related real property contained on
36 the parcel or parcels.
- 37 (7) Financial services, securities operations, and related systems development. –
38 One or both of the following functions:
 - 39 a. Performing analysis, operations, trading, or sales functions for
40 investment banking, securities dealing and brokering, securities
41 trading and underwriting, investment portfolio or mutual fund
42 management, retirement services, or employee benefit
43 administration.
 - 44 b. Developing information technology systems and applications,
45 managing and enhancing operating applications and databases, or
46 providing, operating, and maintaining telecommunications networks
47 and distributed and mainframe computing resources for investment
48 banking, securities dealing and brokering, securities trading and
49 underwriting, investment portfolio or mutual fund management,
50 retirement services, or employee benefit administration.
- 51 (8) Reserved.

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

- b. Aircraft manufacturing.
- c. Bioprocessing.
- d. Financial services, securities operations, and related systems development.
- e. Motor vehicle manufacturing.
- f. Pharmaceutical and medicine manufacturing and distribution of pharmaceuticals and medicines.
- g. Semiconductor manufacturing.
- h. Solar electricity generating materials manufacturing.

(2) Minimum investment requirement. – The Secretary of Commerce has certified that the owner of the facility will invest at least the required amount of private funds to construct the facility in this State. For the purpose of this subsection, costs of construction may include costs of acquiring and improving land for the facility and costs of equipment for the facility. If the facility is located in a development tier one area, the required amount is fifty million dollars (\$50,000,000). For all other facilities, the required amount is one hundred million dollars (\$100,000,000). In the case of a computer manufacturing facility, the owner may invest these funds either directly or indirectly through a related entity or strategic partner.

(3) Industry-specific requirements:

- a. If the facility is primarily engaged in financial services, securities operations, and related systems development, it satisfies all of the following conditions:
 - 1. It is owned and operated by the business for which the services are provided or by a related entity of that business as defined in G.S. 105-130.7A.
 - 2. No part of it is leased to a third-party tenant that is not a related entity of the business.
- b. If the facility is primarily engaged in solar electricity generating materials manufacturing, the business satisfies a wage standard at the facility. The wage standard is equal to one hundred five percent (105%) of the lesser of the average weekly wage for all insured private employers in the State and the average weekly wage for all insured private employers in the county. A business satisfies the wage standard if it pays an average weekly wage that is at least equal to the amount required by this sub-subdivision. In making the wage calculation, the business must include any jobs that were filled for at least 1,600 hours during the calendar year.

(c) Forfeiture. – If the owner of an eligible facility does not make the required minimum investment within five years after the first refund under this section with respect to the facility, the facility loses its eligibility and the owner forfeits all refunds already received under this subsection. Upon forfeiture, the owner is liable for tax under this Article equal to the amount of all past taxes refunded under this section, plus interest at the rate established in G.S. 105-241.21, computed from the date each refund was issued. The tax and interest are due 30 days after the date of the forfeiture. A person that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236.

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

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

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

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

5 (3) The location of facilities with respect to which refunds were claimed.

6 (4) The total cost to the General Fund of the refunds claimed.

7 (f) Sunset. – This section is repealed for sales made on or after January 1, 2013."

8 **SECTION 1.21.** Article 5 of Chapter 105 of the General Statutes is amended by
 9 adding a new section to read:

10 **"§ 105-164.29B. Information to counties and cities.**

11 The Secretary must give information on refunds of tax made under this Article to a
 12 designated county or city official within 30 days after the official makes a written request to the
 13 Secretary for the information. For a request made by a county official, the Secretary must give
 14 the official a list of each claimant that received a refund in the past 12 months of at least one
 15 thousand dollars (\$1,000) of tax paid to the county. For a request made by a city official, the
 16 Secretary must give the official a list of each claimant that received a refund in the past 12
 17 months of at least one thousand dollars (\$1,000) of tax paid to all the counties in which the city
 18 is located. The list must include the name and address of each of these claimants and the
 19 amount of the refund received from each county covered by the request.

20 A claimant that has received a refund under this Article of tax paid to a county must give
 21 information on the refund to a designated official of the county or a city located in the county.
 22 The claimant must give the information to the county or city official within 30 days after the
 23 official makes a written request to the claimant for the information. For a request by a county or
 24 city official, the claimant must give the official a copy of the request for the refund and any
 25 supporting documentation requested by the official to verify the request. If a claimant
 26 determines that a refund it has received under this Article is incorrect, the claimant must file an
 27 amended request for a refund.

28 For purposes of this section, a designated county official is the chair of the board of county
 29 commissioners or a county official designated in a resolution adopted by the Board, and a
 30 designated city official is the mayor of the city or a city official designated in a resolution
 31 adopted by the city's governing board. Information given to a county or city official under this
 32 section is not a public record and may not be disclosed except as provided in G.S. 153A-148.1
 33 or G.S. 160A-208.1."

34 **SECTION 1.22.** G.S. 105-256(a) is amended by inserting a new subdivision
 35 between subdivisions (2) and (3) to read:

36 "(a) Publications. – The Secretary shall prepare and publish the following:

37 ...

38 (2a) By May 1 of each year, an economic incentives report that contains
 39 information on tax credits and tax refunds, itemized by credit or refund and
 40 by taxpayer, for the previous calendar year.

41"

42
 43 **PART II: OBSOLETE ECONOMIC INCENTIVES**

44 **SECTION 2.1.** Article 3C of Chapter 105 of the General Statutes reads as
 45 rewritten:

46 "Article 3C.

47 "Tax Incentives For Recycling Facilities.

48 **"§ 105-129.25. Definitions.**

49 The following definitions apply in this Article:

50 ...

1 (3) ~~Large recycling facility. — A recycling facility that qualifies under~~
2 ~~G.S. 105-129.26(b).~~

3 ...

4 "**§ 105-129.26. Qualification; forfeiture.**

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

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

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

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

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

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

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

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

30 ...

31 (e) Reports. — The Department of Commerce and the Department of Revenue shall
32 jointly publish by May 1 of each year the following information itemized by taxpayer for the
33 12-month period ending the preceding December 31:

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

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

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

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

39 "**§ 105-129.27. Credit for investing in large or major recycling facility.**

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

47 "

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

49 **PART III: CONFORMING CHANGES**

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

1 "(a) No person, firm or corporation shall advertise the sale of its merchandise using the
2 term "wholesale" with regard to its sale prices, except as such word may appear in the
3 company or firm name, unless such advertised sale or sales is, or are, to a customer or
4 customers having a certificate of resale issued pursuant to G.S. 105-164.28 and recorded as
5 required by G.S. 105-164.25 or unless the wholesale price is established by an independent
6 agency not engaged in the manufacture, distribution or sale of such merchandise.

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

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

17 "**§ 105-129.2. Definitions.**

18 The following definitions apply in this Article:

19 ...

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

27 "

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

29 "(6a) Development tier. – The classification assigned to an area pursuant to
30 G.S. 143B-437.08."

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

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

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

36 "**§ 105-187.23. Exemptions and refunds.**

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

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

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

50 "**§ 105-187.33. Exemptions and refunds.**

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

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

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

12 ...

13 (6a) To furnish the county or city official designated under
14 ~~G.S. 105-164.14(f)~~ G.S. 105-164.29B a list of claimants that have received a
15 refund of the county sales or use tax to the extent authorized in
16 ~~G.S. 105-164.14(f)~~ that statute.

17 ...

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

21 ...

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

26 ...

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

30 ...

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

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

50
51 **PART IV: EFFECTIVE DATE**

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