GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2015

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HOUSE DRH40131-MC-59 (2/24)

	Short Title:	Small Business New Job Creation Incentive.	(Public)			
	Sponsors:	Representative Goodman.				
	Referred to:					
1						
1 2	ΔΝ ΔΟΤ Τ	A BILL TO BE ENTITLED TO CREATE A TAX CREDIT FOR NEW JOBS CREATED B	V SMALL			
$\frac{2}{3}$	AN ACT TO CREATE A TAX CREDIT FOR NEW JOBS CREATED BY SMALL BUSINESSES.					
4		Assembly of North Carolina enacts:				
5		ECTION 1. Article 3J of Subchapter I of Chapter 105 of the General	Statutes is			
6 7	reenacted as it existed immediately before its repeal and reads as rewritten: "Article 3J.					
8		"Tax Credits for Growing Businesses.				
9						
10	"§ 105-129.8	1. Definitions.				
11	The follow	wing definitions apply in this Article:				
12	(1	Agrarian growth zone. – Defined in G.S. 143B-437.010.				
13	(2	2) Air courier services. – Defined in G.S. 143B-437.01.				
14	(3	· · · ·				
15		or repair services for commercial aircraft or the rebuilding of (commercial			
16		aircraft.				
17	(4		a business			
18		and capitalized by the taxpayer for tax purposes under the Code.				
19	(5					
20	(6					
21		pursuant to regulations adopted under section 1012 of the Code.				
22		of property the taxpayer leases from another, cost is value as r_{1}	determined			
23 24	(7	$\frac{\text{pursuant to G.S. 105-130.4(j)(2).}}{\text{Customer service cell center}}$	muica hu a			
24 25	(7	Customer service call center. – The provision of support se business to its customers by telephone or other electronic means				
26		products or services of the business. For the purposes of this de				
20 27		establishment is primarily engaged in providing support s				
28		telephone or other electronic means only if at least sixty percent (
29		calls are incoming or at least sixty percent (60%) of its other				
30		communications are initiated by its customers.				
31	(8	•	oursuant to			
32	ζ-	G.S. 143B-437.08.				
33	(9		electronic			
34	× ×	shopping and mail order houses industry group 4541 as defined by				
35						
36	(1	-2) Hub. Defined in G.S. 105-164.3.				



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	(13)	Information technology and services. Defined in G.S.	. 143B-437.01.		
	(14)	Long-term unemployed worker. – An individual t			
		unemployed for at least the preceding 26 consecutive v	-		
		records maintained by the Division of Employment S	•		
		Department of Commerce.			
	(15)	Manufacturing. – Defined in G.S. 143B-437.01.			
	(16) (16)	Motorsports facility. A motorsports racetrack cla	ssified in the United		
	(10)	States racetrack national industry 711212, as defined by			
	(17)	Motorsports racing team. – A professional racing team	·		
	(17)	the research and development, design, manufacture, rej			
		operation of motor vehicles used in live motorsports i	•		
		paying audience.			
		puying uudienee.			
	 (23)	Research and development An industry in sci	ientific research and		
	(23)	development services industry group 5417 as defined b			
	<u>(23a)</u>	Small business. – A taxpayer that employs no m	-		
	<u>(254)</u>	employees throughout the taxable year and that is e			
		other than retail trade, as designated by sectors 44 and			
		services and drinking places, as designated by subsector			
	(24)	Urban progress zone. – The classification assigned to			
	(21)	G.S. 143B-437.09.	o un urou pursuant te		
	(25)	Warehousing. Defined in G.S. 143B-437.01.			
	$\frac{(25)}{(26)}$	Wholesale trade. Defined in G.S. 143B-437.01.			
"8 105	· · ·				
	 "§ 105-129.82. Sunset; studies. (a) Sunset. – This Article is repealed effective for business activities that occur on or 				
· · ·	anuary 1, $\frac{2}{2}$				
	······································	· · · · · <u>- · - · ·</u>			
"§ 105	"§ 105-129.83. Eligibility; forfeiture.				
(a)	e Eligib	le Business. A taxpayer is eligible for a credit under	this Article only with		
respec		ies occurring at an establishment whose primary act			
		rimary activity of an establishment is determined based			
		or group of products produced or distributed, or services			
1 1	(1)	Air courier services hub.			
	(2)	Aircraft maintenance and repair.			
	(3)	Company headquarters, but only if the additional eligi	bility requirements of		
		subsection (b) of this section are satisfied.			
	(4)	Customer service call centers.			
	(5)	Electronic shopping and mail order houses.			
	(6)	Information technology and services.			
	(7)	Manufacturing.			
	(8)	Motorsports facility.			
	(9)	Motorsports racing team.			
	(10)	Research and development.			
	(10)	Warehousing.			
	$\frac{(11)}{(12)}$	Wholesale trade.			
(b)	· · ·		for a credit under this		
. ,	(b) Company Headquarters Eligibility. – A taxpayer is eligible for a credit under this Article with respect to a company headquarters only if the taxpayer creates at least 75 new jobs				
	at the company headquarters within a 24-month period. A taxpayer that meets this job creation				
	requirement is eligible for credits under this Article with respect to the company headquarters				
-		years beginning with the year in which the job cru			
ior un		years beginning with the year in which the job ch	cation requirement is		

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24-month period during a three-year eligibility period does not qualify for any extended 1 2 eligibility period. However, a taxpayer that creates an additional 75 new jobs at the company 3 headquarters in a 24-month period after the completion of a three-year eligibility period is 4 eligible for credits with respect to the company headquarters for an additional three taxable 5 years beginning in the year in which the additional job creation requirement is satisfied. 6 7 "§ 105-129.84. Tax election; cap; carryforwards; limitations. 8 . . . 9 (c) Carryforward. – Unless a longer carryforward period applies, any unused portion of 10 a credit allowed under G.S. 105-129.87 or G.S. 105-129.88 may be carried forward for the 11 succeeding five years, and any unused portion of a credit allowed under G.S. 105 129.89 may be carried forward for the succeeding 15 years. If the Secretary of Commerce makes a written 12 13 determination that the taxpayer is expected to purchase or lease, and place in service in 14 connection with an eligible business within a two year period, at least one hundred fifty million 15 dollars (\$150,000,000) worth of business and real property, any unused portion of a credit under this Article with respect to the establishment that satisfies that condition may be carried 16 17 forward for the succeeding 20 years. If the taxpayer does not make the required level of 18 investment, the taxpayer shall apply the standard carryforward period rather than the 20-year 19 carryforward period.years. 20 21 "§ 105-129.85. Fees and reports. 22 Fee. – When filing a return for a taxable year in which the taxpayer engaged in (a) 23 activity for which the taxpayer is eligible for a credit under this Article, the taxpayer shall pay 24 the Department of Revenue a fee of five hundred dollars (\$500.00) for each type of the credit 25 the taxpayer claims or intends to claim with respect to an establishment. The fee is due at the 26 time the return is due for the taxable year in which the taxpayer engaged in the activity for 27 which the taxpayer is eligible for a credit. No credit is allowed under this Article for a taxable 28 year until all outstanding fees have been paid. Fees collected under this section shall be credited 29 to the General Fund. 30 (b) Report. – The Department must include in the economic incentives report required 31 by G.S. 105-256 the following information itemized by credit and by taxpayer: 32 The number and amount of credits generated and taken for each credit (1)33 allowed in this Article. 34 The number and development tier area of new jobs with respect to which (2)35 credits were generated and to which credits were taken. 36 The cost and development tier area of business property with respect to (3)37 which credits were generated and to which credits were taken. 38 (4) The cost and development tier area of real property investment with respect 39 to which credits were generated and to which credits were taken. 40 41 "§ 105-129.87. Credit for creating jobs. 42 Credit. - A taxpayer that meets the eligibility requirements set out in (a) 43 G.S. 105-129.83 and satisfies the threshold requirement for new job creation in this State under 44 subsection (b) of this section during the taxable year is allowed a credit for creating jobs. that is 45 a small business that meets the eligibility requirements set out in G.S. 105-129.83 and that satisfies the threshold requirement for new job creation in this State under subsection (b) of this 46 section during the taxable year, is allowed a credit for creating jobs. The amount of the credit 47 for each new job created is set out in the table below and is based on the development tier 48 49 designation of the county in which the job is located. If the job is located in an urban progress 50 zone or an agrarian growth zone, zone and is created by a taxpayer other than a small business, 51 the amount of the credit is increased by an additional one thousand dollars (\$1,000) per job. In

addition, if a the job is located in an urban progress zone or an agrarian growth zone is and ifiled by a resident of that zone or by a long-term unemployed worker, worker or is created by a small business, the amount of the credit is increased by an additional two thousand dollars (\$2,000) per job. imall business, the amount of the credit is increased by an additional two thousand dollars (\$2,000) per job. Area Development Tier Amount of Credit imall business, the amount of the credit is increased by an additional two thousand dollars (\$2,000) per job. Tier Three \$5,000 imall business, the amount of the credit is increased by an additional two thousand dollars (\$2,000) per job. Tier Three \$5,000 imall business, the amount of the credit is increased by an additional two thousand dollars (\$2,000) per job. Tier Three \$5,000 imall business the additional transformation of the county where the new jobs are created during the taxable year, if the taxpayer creates new jobs at new jobs created at ellipible establishments in additional progress zone, a port enhancement zone, or an agrarian growth zone, the applicable threshold is the one for a development Tier on a geragate number of new jobs created at ellipible establishments in growth zone are not aggregated with jobs created at any other ellipible creates new jobs at create for a dovelopment tier one area. New jobs created in an urban progress zone, a port enhancement zone, or an agrarian growth zone the applicable threshold at any other ellipible establishments in cast of the taxpayer creates new jobs at create is this for the cost of the the taxpayer creates new jobs at create is the stabe year. If the taxpayer cre		General Assembly of North Carolina	Session 2015				
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1 progress zone, a port enhancement zone, or an agrarian growth zone, the applicable threshold is 2 the one for a development tier one area. Business property placed in service in an urban 3 progress zone, a port enhancement zone, or an agrarian growth zone is not aggregated with 4 business property placed in service at any other eligible establishments regardless of county. If 5 the taxpayer places eligible business property in service at more than one establishment in a 6 county during the taxable year, the threshold applies to the aggregate amount of eligible 7 business property placed in service during the taxable year at all establishments in the county. 8 If the taxpayer places eligible business property in service at establishments in different 9 counties, the threshold applies separately to the aggregate amount of eligible business property 10 placed in service in each county. If the taxpayer places eligible business property in service at 11 an establishment over the course of a two year period, the applicable threshold for the second 12 taxable year is reduced by the eligible investment amount for the previous taxable year.

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17 Expiration. As used in this subsection, the term "disposed of" means disposed of, (d) 18 taken out of service, or moved out of State. If, in one of the four years in which the installment 19 of a credit accrues, the business property with respect to which the credit was claimed is 20 disposed of, the credit expires, and the taxpayer may not take any remaining installment of the 21 credit for that business property unless the cost of that business property is offset in the same 22 taxable year by the taxpayer's new investment in eligible business property placed in service in 23 the same county, as provided in this subsection. If, during the taxable year, the taxpayer 24 disposed of the business property for which installments remain, there has been a net reduction 25 in the cost of all the taxpayer's eligible business property that are in service in the same county 26 as the business property that was disposed of, and the amount of this reduction is greater than 27 twenty percent (20%) of the cost of the business property that was disposed of, then the credit 28 for the business property that was disposed of expires. If the amount of the net reduction is 29 equal to twenty percent (20%) or less of the cost of the business property that was disposed of, 30 or if there is no net reduction, then the credit does not expire. In determining the amount of any 31 net reduction during the taxable year, the cost of business property the taxpayer placed in 32 service during the taxable year and for which the taxpayer claims a credit under Article 3A or 33 Article 3B of this Chapter may not be included in the cost of all the taxpayer's eligible business 34 property that is in service. If in a single taxable year business property with respect to two or 35 more credits in the same county are disposed of, the net reduction in the cost of all the 36 taxpayer's eligible business property that is in service in the same county is compared to the 37 total cost of all the business property for which credits expired in order to determine whether 38 the remaining installments of the credits are forfeited.

39 The expiration of a credit does not prevent the taxpayer from taking the portion of an 40 installment that accrued in a previous year and was carried forward to the extent permitted 41 under G.S. 105-129.84.

42 Transferred Property. - If, in one of the four years in which the installment of a (e) 43 credit accrues, the business property with respect to which the credit was claimed is moved to a 44 county in a higher-numbered development tier or out of an urban progress zone, a port 45 enhancement zone, or an agrarian growth zone, the remaining installments of the credit are 46 allowed only to the extent they would have been allowed if the business property had been 47 placed in service initially in the area to which it was moved. If, in one of the four years in 48 which the installment of a credit accrues, the business property with respect to which a credit 49 was claimed is moved to a county in a lower-numbered development tier or an urban progress zone, a port enhancement zone, or an agrarian growth zone, the remaining installments of the 50

General Assembly of North Carolina Session 2015 1 eredit shall be calculated as if the business property had been placed in service initially in the 2 area to which it was moved. 3 Wage Standard. For the purposes of this section, a taxpayer satisfies the wage (f) 4 standard requirement of G.S. 105 129.83 only if the taxpayer satisfies the requirement with 5 respect to all of the jobs at the establishment, considered collectively, with respect to which a 6 credit is claimed. 7 No Double Credit. A taxpayer may not claim a credit under this section with (g) 8 respect to business property for which the taxpayer claims a credit under G.S. 105-129.9 or 9 G.S. 105-129.9A. 10 "§ 105-129.89. Credit for investment in real property. Credit. - If a taxpayer that has purchased or leased real property in a development 11 (a) 12 tier one area begins to use the property in an eligible business during the taxable year, the 13 taxpayer is allowed a credit equal to thirty percent (30%) of the eligible investment amount if 14 all of the eligibility requirements of G.S. 105 129.83 and of subsection (b) of this section are 15 met. For the purposes of this section, property is located in a development tier one area if the 16 area the property is located in was a development tier one area at the time the taxpayer made a 17 written application for the determination required under subsection (b) of this section. The 18 eligible investment amount is the lesser of (i) the cost of the property and (ii) the amount by 19 which the cost of all of the real property the taxpayer is using in this State in an eligible 20 business on the last day of the taxable year exceeds the cost of all of the real property the 21 taxpayer was using in this State in an eligible business on the last day of the base year. The 22 base year is that year, of the three immediately preceding taxable years, in which the taxpayer 23 was using the most real property in this State in an eligible business. In the case of property that 24 is leased, the cost of the property is not determined as provided in G.S. 105-129.81 but is 25 considered to be the taxpayer's lease payments over a seven year period, plus any expenditures 26 made by the taxpayer to improve the property before it is used by the taxpayer if the 27 expenditures are not reimbursed or credited by the lessor. The entire credit may not be taken for 28 the taxable year in which the property is first used in an eligible business but shall be taken in 29 equal installments over the seven years following the taxable year in which the property is first 30 used in an eligible business. When part of the property is first used in an eligible business in 31 one year and part is first used in an eligible business in a later year, separate credits may be 32 claimed for the amount of property first used in an eligible business in each year. The basis in 33 any real property for which a credit is allowed under this section shall be reduced by the 34 amount of credit allowable. 35 (b) Determination by the Secretary of Commerce. A taxpayer is eligible for the credit 36 allowed under this section with respect to an establishment only if the Secretary of Commerce 37 makes a written determination that the taxpayer is expected to purchase or lease and use in an 38 eligible business at that establishment within a three-year period at least ten million dollars 39 (\$10,000,000) of real property and that the establishment that is the subject of the credit will 40 create at least 200 new jobs within two years of the time that the property is first used in an 41 eligible business. If the taxpayer fails to timely make the required level of investment or fails to 42 timely create the required number of new jobs, the taxpayer forfeits the credit as provided in 43 G.S. 105-129.83. 44 Mixed Use Property. If the taxpayer uses only part of the property in an eligible (c) 45 business, the amount of the credit allowed under this section is reduced by multiplying it by a 46 fraction, the numerator of which is the square footage of the property used in an eligible

47 business and the denominator of which is the total square footage of the property.

48 (d) Expiration. If, in one of the seven years in which the installment of a credit 49 accrues, the property with respect to which the credit was claimed is no longer used in an 50 eligible business, the credit expires, and the taxpayer may not take any remaining installment of 51 the credit. If, in one of the seven years in which the installment of a credit accrues, part of the

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- property with respect to which the credit was claimed is no longer used in an eligible business, 1 2 the remaining installments of the credit shall be reduced by multiplying it by the fraction 3 described in subsection (c) of this section. If, in one of the years in which the installment of a 4 credit accrues and by which the taxpayer is required to have created 200 new jobs at the 5 property, the total number of employees the taxpayer employs at the property with respect to 6 which the credit is claimed is less than 200, the credit expires, and the taxpayer may not take 7 any remaining installment of the credit. 8 In each of these cases, the taxpayer may nonetheless take the portion of an installment that 9 accrued in a previous year and was carried forward to the extent permitted under 10 G.S. 105-129.84. 11 (e) No Double Credit. - A taxpayer may not claim a credit under this section with 12 respect to real property for which a credit is claimed under G.S. 105-129.12 or
- 13 G.S. 105-129.12A."
- 14 **SECTION 2.** This act is effective for taxable years beginning on or after January 1,

15 2015.