

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 811

Short Title: Alternative R & D Credit.

(Public)

---

Sponsors: Senators Reeves; and Clodfelter.

---

Referred to: Finance.

---

April 12, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO PERMIT AN ALTERNATIVE COMPUTATION OF THE STATE TAX  
3 CREDIT FOR RESEARCH AND DEVELOPMENT.

4 The General Assembly of North Carolina enacts:

5 Section 1. The title of Article 3B of Chapter 105 of the General Statutes reads  
6 as rewritten:

7 "ARTICLE 3B.

8 "**BUSINESS TAX CREDIT-CREDITS.**"

9 Section 2. Article 3B of Chapter 105 of the General Statutes is amended by  
10 adding a new section to read:

11 "**§ 105-129.16A. Elective credit for research and development.**

12 (a) Credit. – In lieu of the credit for research and development allowed under  
13 Article 3A of this Chapter, a taxpayer may elect a credit under this section for its research  
14 and development expenses incurred in this State. The credit allowed is equal to one  
15 percent (1%) of the taxpayer's qualified research expenses incurred in this State during  
16 the taxable year that are part of the taxpayer's business activities.

17 (b) No Double Credit. – A taxpayer that elects the credit allowed under this section  
18 is not allowed a credit for research and development under Article 3A of this Chapter  
19 with respect to the taxpayer's qualified research expenses. An election of the credit  
20 allowed under this section is binding for the current taxable year and all subsequent

1 taxable years until this section is repealed or the Secretary gives the taxpayer permission  
2 to elect a different credit."

3 Section 3. G.S. 105-129.15 reads as rewritten:

4 **"§ 105-129.15. Definitions.**

5 The following definitions apply in this Article:

6 (1) Business property. – Tangible personal property that is used by the  
7 taxpayer in connection with a business or for the production of income  
8 and is capitalized by the taxpayer for tax purposes under the Code. The  
9 term does not include, however, a luxury passenger automobile taxable  
10 under section 4001 of the Code or a watercraft used principally for  
11 entertainment and pleasure outings for which no admission is charged.

12 (2) Cost. – In the case of property owned by the taxpayer, cost is  
13 determined pursuant to regulations adopted under section 1012 of the  
14 Code, subject to the limitation on cost provided in section 179 of the  
15 Code. In the case of property the taxpayer leases from another, cost is  
16 value as determined pursuant to G.S. 105-130.4(j)(2).

17 (2a) Qualified research expenditures. – Defined in section 41 of the Internal  
18 Revenue Code as enacted as of January 1, 1999.

19 (3) Purchase. – Defined in section 179 of the Code."

20 Section 4. G.S. 105-129.17 reads as rewritten:

21 **"§ 105-129.17. Tax election; cap.**

22 (a) Tax Election. – The ~~credit~~ credits allowed in this Article ~~is~~ are allowed against  
23 the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4  
24 of this Chapter. The taxpayer must elect the tax against which ~~the~~ a credit will be claimed  
25 when filing the return on which the first installment of the credit is claimed. This election  
26 is binding. Any carryforwards of ~~the~~ a credit must be claimed against the same tax.

27 (b) Cap. – The business property credit allowed in this Article may not exceed  
28 fifty percent (50%) of the tax against which it is claimed for the taxable year, reduced by  
29 the sum of all other credits allowed against that tax, except tax payments made by or on  
30 behalf of the taxpayer. ~~This limitation applies.~~ The research and development credit allowed  
31 in this Article may not exceed the tax against which it is claimed for the taxable year,  
32 reduced by the sum of all other credits allowed against that tax, except tax payments  
33 made by or on behalf of the taxpayer. These limitations apply to the cumulative amount  
34 of credit, including carryforwards, claimed by the taxpayer under this Article against each  
35 tax for the taxable year. Any unused portion of the business property credit may be  
36 carried forward for the succeeding five years. Any unused portion of the research and  
37 development credit may be carried forward for the succeeding 15 years."

38 Section 5. This act is effective for taxable years beginning on or after January  
39 1, 1999.