

May 25, 2010

H 1973. EXTEND VARIOUS ECONOMIC INCENTIVES SUNSETS. Filed 5/25/10. *TO EXTEND THE SUNSET OF VARIOUS ECONOMIC INCENTIVES AND TO PROVIDE AN ENHANCED INCENTIVE FOR JOBS IN HIGH UNEMPLOYMENT COUNTIES.*

Extends the sunset date to January 1, 2014, for several provisions in GS Chapter 105: GS 105-129.16D (credit for constructing renewable fuel facilities), GS 105-129.16E (credit for small business employee health benefits), GS 105-129.16F (credit for biodiesel producers), GS 105-129.75 (credit for mill rehabilitation), GS 105-129.82(a) (credit for growing businesses), GS 105-163.015 (credit for qualified business investments), and GS 105-164.14 (credits for passenger planes and aviation fuel for motorsports events).

Enacts new GS 105-129.81 (11a), adding the term and definition for *High unemployment county as follows*: applicable for tax years ending on December 31, 2011, and December 31, 2010, a county that has an unemployment rate equal or greater than 125% of the state average unemployment rate, as determined by the Secretary of Commerce. Amends GS 105-129.87(a) to provide an additional \$2,000 credit per job for taxpayers meeting eligibility under GS 105-129.83 who create jobs in a high unemployment county. The amendments related to high unemployment counties are effective for taxable years beginning on or after January 1, 2010; otherwise, the act is effective when it becomes law.

Intro. by Owens, Gibson.

GS 105

June 10, 2010

H 1973. EXTEND VARIOUS ECONOMIC INCENTIVES SUNSETS. Filed 5/25/10. House committee substitute makes the following changes to 1st edition. Changes the title to *AN ACT TO ENHANCE THE COMPETITIVENESS OF THE CREDIT FOR PRODUCTION COMPANIES; TO ENACT TAX INCENTIVES FOR INTERACTIVE DIGITAL MEDIA COMPANIES; TO EXPAND THE TYPES OF DATACENTERS ELIGIBLE FOR PREFERENTIAL TAX TREATMENT; TO INCREASE THE NUMBER OF INDUSTRIES ELIGIBLE FOR SALES TAX REFUNDS ON BUILDING MATERIALS FOR MAJOR INDUSTRIAL FACILITIES; TO EXTEND AND EXPAND TAX CREDITS FOR GROWING BUSINESSES; TO EXTEND SUNSETS ON EXPIRING ECONOMIC DEVELOPMENT TAX BENEFITS; TO PROVIDE ECONOMIC DEVELOPMENT BENEFITS FOR PROJECTS LOCATED IN ECO-PARKS; TO PROVIDE A SALES TAX EXEMPTION FOR CERTAIN WOOD CHIPPERS; AND TO MAKE CHANGES TO PURCHASING AND CONTRACT LAWS.*

Expand Tax Credits for Production Companies. Adds new section as follows. Amends GS 105-130.47, removing the terms and definitions for *Highly compensated individual* and *Alternative Credit*. Adds employee fringe contributions, per diems, stipends, and living allowances to the list of expenses that qualify for the credit. Increases the credit allowed to a taxpayer that is a production company and has qualifying expenses of at least \$250,000 to 25% (was, 15%) of the company's qualifying expenses. Increases the maximum credit amount allowed under the section to \$20 million (was \$7.5 million). Makes conforming and technical changes. Makes identical changes to GS 105-151.29 (individual income tax). Effective for taxable years beginning on or after January 1, 2010. Effective July 1, 2010, makes cameras, film, and props or building materials used in the construction of sets used in filming of movies for sale, lease, or rental and chemicals and equipment used to develop and edit film used to produce release prints subject to sales tax under Article 5 of GS Chapter 105

instead of being taxable under Article 5F (Manufacturing Fuel and Certain Machinery and Equipment) of GS Chapter 105.

Create Tax Credits for Producers of Interactive Digital. Adds new section as follows. Enacts new Article 3L to GS Chapter 105, entitled Interactive Digital Media, to provide tax credits to eligible taxpayers associated with interactive digital media productions. Provides the terms and definitions for application in Article 3L, including the definitions for *Gold master* – the version of interactive digital media released to a manufacturer; *Interactive digital media* – products that are intended for commercial use or distribution and that satisfy listed conditions, including interactive digital platforms and engines but not including interpersonal communications services products; and *Qualifying expenses* of a producer of interactive digital media which include production property purchased or leased and certain compensation and wages. Makes a taxpayer eligible to receive a credit under Article 3L if it satisfies GS 105-129.83(c), (d), (e), (f), and (g) (pertaining to wage standards, health insurance, environmental impact, safety and health programs, and overdue tax debts requirements). Details guidelines for credit allocations and caps, and prohibits a taxpayer receiving a credit under Article 3L from receiving a grant under the Job Development Investment Grant Program or the One North Carolina Fund. Provides a sunset date for Article 3L of taxable years beginning on or after January 1, 2014. Requires a taxpayer claiming the credit to provide all information requested by the Secretary of Commerce, to maintain and make available records for inspection by the Secretary, and to bear the burden of proving eligibility for and amount of a credit. Directs the Department to publish by May 1 of each year reports for the 12-month period ending the preceding December 31 and itemized by credit and taxpayer on: (1) the qualifying expenses for which a credit was claimed separated by category of expenses; (2) the number of people employed in the State with respect to credits claimed; and (3) the total cost to the General Fund of the credits claimed. Allows a credit for a taxpayer that has qualifying expenses of at least \$100,000 with respect to an interactive digital media production equal to 15% of all qualifying expenses for which the taxpayer has not claimed a credit. Computes the credit based on all of the taxpayer's qualifying expenses incurred with respect to the production. Limits this production credit to \$7.5 million, and emphasizes that no credit is allowed for any production that is: (1) gambling or casino games, (2) done for academic credit, (3) developed for internal use, (4) political advertising, (5) obscene, or (6) an Internet site that is primarily static and informative. Prohibits a taxpayer who receives a production credit from also claiming a credit under Article 3J (credits for growing businesses) when compensation and wages or business property is used to calculate the production credit under Article 3L. Makes a taxpayer that is primarily engaged in producing interactive digital media eligible for a company headquarters credit if the taxpayer creates at least 20 new full-time jobs at the headquarters within a 24-month period and maintains those jobs for at least three years. Provides additional details related to specific time periods. Allows a credit of \$5,000 for each new full-time job created at the company headquarters, and limits the maximum cumulative credit claimed under the headquarters provision to \$500,000. Provides that the entire credit is taken in the taxable year in which the job is created. Calculates the number of new jobs that a taxpayer creates or maintains during a taxable year by subtracting the average number of full-time jobs the taxpayer had in the state during the 12-month period preceding the beginning of the taxable year from the average number of full-time jobs the taxpayer had in the state during the taxable year. Prohibits a taxpayer claiming a headquarters credit from also claiming a job creation credit under Article 3J for the same job. Amends GS 105-129.109 as enacted by this act, if House Bill 1880 in the 2009 General Assembly becomes law, to require the Department of Revenue to include designated information in the economic incentives report required by GS 105-256, itemized by credit and taxpayer. Effective for taxable years beginning on or after January 1, 2011, and applies to productions commenced on or after that date.

Enhance Sales Tax Benefits for Datacenters and Major Industrial Facilities. Adds new section as follows. Amends GS 105-164.3 to modify the definitions for each of the following terms, (1) *datacenter* and (2) *eligible Internet data center*. Current law allows the owner of an eligible facility or certain industries to receive an annual refund of sales and use tax. Amends GS 105-164.14(j) to include as an eligible facility allowed an annual refund of sales and use taxes a facility primarily engaged in paper-from-pulp manufacturing and meeting specified requirements

regarding job creation and wages paid to employees. Includes among the industries eligible for the annual sales and use tax refund (1) paper-from-pulp manufacturing meeting the indicated manufacturing guidelines and (2) turbine and turbine generator set units manufacturing as defined in the proposed subsection. Amends the criteria for forfeiture of the sales and use taxes refund to clarify that if the owner of an eligible facility fails to maintain the minimum number of jobs created, the facility loses its eligibility and the owner forfeits all the refunds already received under the subsection. Amends GS 105-187.50(2) to clarify the criteria for eligible datacenters (was, facilities) that are located entirely in a development tier one area and those not located entirely in a development tier one area. Makes additional conforming change replacing facility with datacenter. Amends GS 105-187.51C (tax imposed on datacenter machinery and equipment) to extend the sunset date from July 1, 2013 to July 1, 2015. Effective July 1, 2010, and applies to sales and purchases made on or after that date.

Extend and Revise Tax Credits for Growing Businesses. Includes Section 5 of the previous edition and makes the following changes and additions. Amends GS 143B-437.010(a), clarifying and adding to the conditions required for an area to be classified as an agrarian growth zone. Deletes amendment to GS 105-129.81 in the previous edition and replaces it with an amendment to add *Environmental disqualifying event* and explanations thereof to the statute. Amends GS 105-129.83(e) to make a taxpayer eligible for a credit only if the taxpayer certifies that, at the time the taxpayer claims the credit, there has not been a final unfavorable determination with respect to an environmental disqualifying event; provides additional administrative and procedural criteria (was, the taxpayer had no pending or final determination of a violation by DENR). Requires the Secretary of DENR to report on disqualifying events for which a final determination unfavorable to the tax payer was made. Amends GS 105-129.83(i) to add that a taxpayer forfeits a credit previously allowed under the Article if a final determination unfavorable to the taxpayer with respect to an environmental disqualifying event is made that applies to the year in which the activity subject to the credit occurred. Amends GS 143B-437.02(g) and GS 143B-437.012(h) to require that a business is eligible for consideration for site development only if it satisfies the environmental impact standard under GS 105-129.83 (deletes previous requirements).

Extend Existing Tax Benefits for Economic Development. Includes section 1, 3, and 7 from the previous edition.

Create Economic Development Incentives for Eco-Parks. Adds new section as follows. Amends GS 143B-437.08 to provide that an eco-industrial park has a development tier 1 designation. An eco-industrial park is an industrial park that the Secretary of Commerce has certified as meeting the following requirements: has a least 100 developable acres, located in a county in which motor vehicles emissions inspections are not required, all buildings are constructed in accordance with specified energy-efficiency and water-use standards, and each business in park is in a clean-industry sector. Amends GS 143B-437.4 to give eco-industrial parks priority over comparable projects with respect to funding from the NC Green Business Fund and to exempt eco-industrial parks from new grant cap and matching fund requirements. Amends GS 143B-437.52(b) to give projects located in eco-industrial parks priority over comparable projects with respect to funding under the Job Development Investment Grant Program. Effective January 1, 2011, amends GS 105-129.16A(c)(1) to establish \$5 million ceiling for renewable energy projects in eco-industrial parks. Amends GS 105-129.55 to provide a 35% research and development tax credit for research performed in an eco-industrial park. Tax credits are effective for taxable years beginning on or after January 1, 2011. Provisions regarding grant funding are effective with respect to applications submitted on or after July 1, 2010.

Treat Wood Chippers Like Other Commercial Logging Equipment. Adds new section as follows. Amends GS 105-164.13 to exempt from sales tax the sale of wood chipping machinery, defined as machinery used to convert raw forest products into wood chip, provided that the machinery is assigned a 17 digit vehicle identification number. Effective for sales made on or after July 1, 2010.

Purchasing and Contract Changes to Benefit North Carolina Businesses. Adds new section as follows. Amends GS 143-59 to provide that when state agencies, campuses of the UNC system and UNC General Administration, and the Department of Community Colleges are procuring supplies, materials, equipment, and personal property or construction or architectural services through a procurement process where (1) the contract is to be awarded to the lowest

bidder, (2) the lowest bid is from a nonresident bidder, and (3) the bid of a resident bidder is within the lesser of 5% or \$10,000 of the nonresident bidder's bid, then the resident bidder must be offered (a) the option of matching the nonresident bidder's bid, and (b) if otherwise qualified, being awarded the contract at the lower price. If the lowest resident bidder declines to match the lower price, requires that each bidder whose bid is within the match zone be offered the chance to match the lower bid. Makes a conforming change to the statute's caption.

Amends GS 44A-26 to increase the threshold at which a performance and payment bond is required to when the total amount of construction contracts awarded for any one project exceed \$500,000 (was, exceed \$300,000).

Enacts new GS 143-131.1 to require contracts for construction or repair work involving the expenditure of \$30,000 or more in public money (but less than the limits in GS 143-129), made by state agencies, boards, commissions, and institutions to be made after informal bids are secured. Requires informal solicitation for informal bids to include, to the extent practicable, small resident bidders (those meeting the requirements for a resident bidder whose gross revenue in the last completed fiscal year did not exceed \$1.5 million). Allows the Department of Administration (DOA) to (1) restrict to small resident bidders the solicitation and award of contracts on projects that are likely to attract substantial participation by small resident bidders, and (2) waive any bonding requirements of GS Chapter 44A for contracts let under the new statute.

Encourages DOA to consider the use of multiple award schedule contracts when issuing requests for proposals for state term contracts.

Effective July 1, 2010.

Deletions. Deletes the following sections from the previous edition: (1) Section 2, extending the sunset on the credit for small business employee health benefits; (2) Section 4 extending the sunset on the credit for mill rehabilitation, (3) Section 6 extending the sunset on the credit for qualified business investments, and (4) Section 8 amending GS 105-129.87.

June 16, 2010

H 1973. KEEP NORTH CAROLINA COMPETITIVE ACT (NEW). Filed 5/25/10. House committee substitute makes the following changes to 2nd edition.

Makes substantial organizational changes and renumbers the bill accordingly.

Amends GS 105-129.81 to clarify that among environmental disqualifying events is the issuance of a civil penalty for the failure to comply with an order issued by an agency of the Department of Environment and Natural Resources (DENR) to abate or remediate a violation of any program administered by the agency (was, failure to abate or remediate a violation of any program administered by DENR).

Current law provides that a taxpayer who meets the eligibility requirements in GS 105-129.83 and has met specified requirements regarding the purchase or lease of business property is allowed a credit equal to the applicable percentage of the excess of the eligible investment amount over the applicable threshold. The applicable threshold is determined based on the development tier where the eligible business property is placed into service during the taxable year. Amends GS 105-129.88 to make the applicable percentage for Area Development Tier Three 2.5% (was, 3.5%) and to make the Tier Three applicable threshold \$3 million (was, \$2 million).

Changes the effective date to when the act becomes law (was, January 1, 2011) for amendments to the environmental impact provisions of GS 143B-437.02(g) (regarding a business' eligibility for site development and GS 143B-437.012(h) (regarding a business' eligibility for receipt of a grant).

Changes the effective date for GS 105-130.47 and GS 105-151.29 as amended by the act (both regarding credit for the qualifying expenses of a production company) to January 1, 2011 (was, January 1, 2010). Changes the effective date to January 1, 2011 (was, January 1, 2010) for the provision subjecting items used in the construction of film sets and to develop and edit film used to reduce release prints to sales tax

Amends proposed GS 105-129.105 to modify the definition for *interactive digital media* to also include products that are intended for sale under contract to business, government, or nonprofit organizations (was, intended for commercial use or distribution only).

Amends proposed GS 105-129.110 to require that a taxpayer have qualifying expenses of at least \$50,000 (was, \$100,000) with respect to an interactive digital media production to qualify for a production tax credit. Deletes the cap on the amount of the credit allowed under this section (was, credit not allowed to exceed \$7.5 million). Expands the limitations that disallow credit under the section to include a production that contains material that is harmful to minors as defined in GS 14-190.13 (defining certain offenses concerning minors).

Amends proposed GS 105-129.111 to clarify that a taxpayer may not receive a double credit by also claiming a job creation credit under Article 3J of Chapter 105 for the same job and cannot use wages, per diems, fringe benefits and other compensation for which credit is claimed under proposed GS 105-129.111 (headquarters credit) in computing the credit allowed under proposed GS 105-129.110 (production credit).

Makes technical and clarifying changes to GS 105-164.13(55).

Deletes changes to GS 143-59 (regarding preferences given to North Carolina products and citizens, and articles manufactured by state agencies) that specified preference to be given to North Carolina businesses and provided guidelines under which a resident bidder on certain contracts to be provided an opportunity to match the lowest bid of a nonresident bidder. Also deletes changes to GS 44A-26(a) which proposed changing the construction contract amount that triggered the requirement of a performance and payment bond to \$500,000 from \$300,000.

Amends the effective date for proposed GS 143-131.1 (small project bidding by state agencies, boards, commissions, and institutions) to October 1, 2010 (was, July 1, 2010) and provides that the proposed statute is repealed effective January 1, 2013.

Amends the title to more comprehensively reflect the bill content.

June 17, 2010

H 1973. KEEP NORTH CAROLINA COMPETITIVE ACT. Filed 5/25/10. House amendment makes the following changes to 3rd edition.

Amendment #3 deletes the requirement that an eco-industrial park be located in a county that is not required under GS 143-215.107A to perform motor vehicle emissions inspections in order to receive certification from the Secretary of Commerce in proposed GS 143B-437.08(j). Renumbers the remaining subdivisions accordingly.

July 1, 2010

H 1973. VARIOUS ECONOMIC INCENTIVES (NEW). Filed 5/25/10. Senate committee substitute makes the following changes to 4th edition.

Changes the sunset date in GS 105-129.82(a) (tax credit for growing businesses) from January 1, 2014 to January 1, 2013.

Amends GS 105-129.88 (pertaining to the general credit for investing in business property) to make the applicable percentage for Area Development Tier Two 4% (was, 5%) and 2% (was, 2.5%) for Tier Three. Makes environmental disqualifying events, as provided in amended GS 105-129.81 and GS 105-129.83, effective for credits claimed for taxable years beginning on or after January 1, 2007.

Amends GS 105-130.47 (pertaining to production company tax credits) to define a *highly compensated individual* as a person who directly receives compensation in excess of \$1 million from a production company (previous version deleted entire definition). Amends the definition of *qualifying expenses*, removing the highly compensated individual deletion and reinserting qualifying language for compensation and wages *on which withholding payments are remitted to the Department of Revenue*. Clarifies that the qualifying expenses are subject to audit by the Secretary of Revenue before the credit is allowed. Makes conforming changes to GS 105-151.29. Deletes provision subjecting materials used to construct film sets and equipment used to develop and edit film to sales tax.

Amends GS 105-187.5 (tax imposed on mill machinery) to provide that a manufacturing industry or plant does not include a production company.

Deletes section proposing new Article 3L, *Interactive Digital Media*.

Adds new section renaming Article 3F of GS Chapter 105 as *Technology Development*. Makes clarifying changes to GS 105-129.50 (definitions section). Amends GS 129-51. to make a

taxpayer eligible for a credit allowed under Article 3F if it also satisfies overdue tax debts. Makes conforming and technical changes to GS 105-129.51 and GS 105-129.52. Amends GS 105-129.54 to require the Department of Revenue to publish by May 1 of each year the following information *by credit* and by taxpayer for the specific 12-month period: (1) requires the credits allowed under GS 105-129.55 (credit for NC research and development) and proposed GS 105-129.56 (credit for interactive digital media) to be itemized by specified categories, and (2) including information provided in the current law. Enacts new GS 105-129.56 to define *Interactive digital media* as a product that (1) is produced for distribution on electronic media and distribution over the Internet; (2) contains a computer-controlled virtual universe with which the using individual may interact; and (3) contains a significant amount of at least three of five listed types of data. Allows a credit equal to a percentage of the taxpayer's expenses that exceed \$50,000 and that are paid during the taxable year to developing media, platform, or engine to a taxpayer developing interactive digital media or a digital platform or engine in NC. Specifies the expenses to which the credit applies. Allows only one credit under the section with respect to the same expenses, and provides applicable percentages by category. Details limitations on the credit, and explains that a taxpayer may not claim another credit with respect to the expenses used to determine the interactive digital media credit. Effective for taxable years beginning on or after January 1, 2011.

Deletes section enhancing sales tax benefits for datacenters and major industrial facilities.

Amends GS 105-130.48(f) and GS 105-151.30(f) to extend the sunset date for the credit for recycling oyster shells to January 1, 2013 (was, January 1, 2011).

Deletes section extending the following tax benefits: GS 105-129.16D(d) (credit for constructing renewable fuel facilities); GS 105-129.16F(b) (credit for biodiesel producers); and GS 105-164.14 (authorizes refunds for passenger planes and aviation fuel for motorsports events).

Amends GS 143B-437.08 to add that an eco-industrial park must also be located in a county that is not required to perform motor vehicle emissions inspections. Makes the eco-industrial park incentives effective for taxable years beginning on or after January 1, 2011.

Amends GS 105-164.13 to define a *wood chipper* as also designed to be towed by a motor vehicle and sold to a person who purchases a motor vehicle in NC that is to be registered in another state and who uses the vehicle to tow the wood chipper to that other state (maintains vehicle identification number requirement) and removes the requirement that it be used to convert raw forest products into wood chips. Makes the sales tax exemption effective July 1, 2009 (was, July 1, 2010).

Deletes section regulating purchasing and contract changes by state agencies, boards, commissions, and institutions and associated provisions.

Adds new section amending GS 57C-2-01 recognizing the formation of a limited liability company as a low-profit limited liability company and authorizes such a company to use the designation "L3C" if its bylaws require it to accomplish one or more of the charitable or educational purposes within the meaning of section 170(c)(2)(B) of the Internal Revenue Code, operate so that no purpose of the company is to accomplish one or more of the political or legislative purposes within the meaning of section 170(c)(2)(D) of the Internal Revenue Code, and to operate so that no significant purpose of the company is the production of income or the appreciation of property. Makes additional conforming changes to GS 57C-2-21 and GS 55D-20.

Enacts new GS 77-140 establishing the Yadkin River Trust (Trust) as a public agency and instrumentality of the state to develop Yadkin River in Davidson, Montgomery, Rowan, and Stanly counties to (1) ensure the equitable distribution of water for public purposes, (2) investigate and address issues of environmental damage in the area, and (3) fulfill the purpose of SL 1885-212. Provides for the appointment of the three members of the Board of Directors, which includes the Secretary of Commerce. Provides for board member terms, election of a chair, filling of vacancies, and organization and compensation of the board. Enumerates the powers of the Trust, including developing the Yadkin River as an instrumentality of intrastate, interstate, and foreign commerce and navigation. Requires the Trust to monitor the licensing for Yadkin Project No. 2197 and report to specified legislative entities by January 15, 2011, at which time the Trust may also report on issues to be studied under SL 2008-137. Provides that if Alcoa Power Generating,

Inc., is issued a new multiyear license for Yadkin Project No. 2197, these provisions expire upon issuance of the license.

Adds new section providing that if S 1383 or H 1403 become law, then GS 7A-304(a) is amended to provide for \$3 for all felonies where the defendant is convicted or pleads guilty to be paid to the Department of Justice for the support and services of the State Bureau of Investigation DNA Database and DNA databank (was, to support services of DNA collection and analysis). Additionally provides that the cost does not apply to infractions. Effective October 1, 2010 and applies to costs imposed or collected after that date, except in specified misdemeanor cases.

Makes other technical and conforming changes, and changes the title to reflect additions and deletions.

July 6, 2010

H 1973. VARIOUS ECONOMIC INCENTIVES. Filed 5/25/10. Senate amendments make the following changes to 5th edition.

Amendment #1 deletes the changes to GS 105-130.47(a)(1) and GS 105-151.29(a)(I) that amended the definition for *highly compensated individual*, returning the definition to the existing language. Also deletes the change to GS 105-129.88(a) reinstating the applicable percentage to Area Development Tier Two as 5% (was, 4 %).

Amendment #3 deletes proposed Article 10 (establishing the Yadkin River Trust) of GS Chapter 77 and adds new GS Chapter 153C, Uwharrie Regional Resources Act. States that the purpose of the proposed Chapter is to encourage quality growth and development while preserving the natural resources of the Uwharrie region. Creates the 10-member Uwharrie Regional Resources Commission (Commission), a permanent body corporate of the state, and composed of members from the Uwharrie region of the state. Provides that the Commission is located administratively in the Department of Commerce, but authorizes the Commission to exercise its statutory powers and duties independently of the Department of Commerce. Delineates the purposes and functions, the powers and duties, and criteria for appointment of members to the Commission. Directs all state agencies to cooperate with the Commission and to assist the Commission in fulfilling its duties upon request from the Commission. Directs the Secretary of Commerce or the Secretary's designee to serve as the liaison between the Department of Commerce and the Commission. Provides that no action of the Commission supersedes the decision of any local planning board. Creates the Uwharrie Regional Resources Fund as a special fund within the Department of Commerce to be used by the Commission to implement the provisions of the proposed Chapter. Amends the title to reflect the deletion of the Yadkin River Trust provisions and the inclusion of the Uwharrie Regional Resources Act.

Amendment #4 amends GS 113A-12 to clarify that no environmental document is required in connection with projects expending public money if the expenditure is solely for the payment of incentives under an agreement that makes the incentive payments contingent on prior completion of the project or activity, or completion on a specified timetable, and a specified level of job creation or new capital investment. Effective May 1, 2010, but does not apply to any (1) pending litigation or (2) orders issued by a court of competent jurisdiction before the effective date. Amends the title to reflect these changes.

July 7, 2010

H 1973. VARIOUS ECONOMIC INCENTIVES. Filed 5/25/10. Senate amendments make the following changes to 5th edition, as amended.

Amendment #5 rewrites proposed GS 105-129.56 to provide a taxpayer credit for developments in interactive digital media for *higher ed collaboration* (was, University). Provides that the percentage of the allowed credit is 20% for allowable expenses paid to a community college, as defined in GS 115D-2, that offers an associate in applied science degree in simulation and game development, or to a research university (previously applied only to a research university). Also provides that the amount of the allowed tax credit may not be more than \$7.5 million.

In addition, Amendment #5 amends Amendment #3 to provide that the Uwharrie Regional Resources Commission is an advisory group and is not to be construed as having regulatory

authority. Also amends Amendment #4, changing the effective date of the change to GS 113A-12 to June 1, 2010 (was, May 1, 2010).

Amendment #6 adds a new subsection (t2) to GS 105-130.4 to increase the time period for which the Secretary of Revenue may allow certain corporations to use an alternative apportionment formula. Permits a corporation that invests or is expected to invest a minimum of \$500 million in private funds to construct a facility in a development tier one area within five years of the start of construction to make a written request to the Secretary for permission to use an alternative apportionment method if the corporation believes the method that applies to it subjects a greater portion of its income to tax than is attributable to its business in the state. Requires the Secretary of Commerce to provide written certification that the corporation meets the conditions of proposed GS 105-130.4(t2) and that the certification be submitted with the corporation's request to the Secretary of Revenue. Provides that all of the provisions of GS 105-130.4(t1) apply to a request for an alternative apportionment method under the proposed subsection except that a decision may apply to no more than eight tax years. Makes a conforming change to GS 105-130.4(t1) and makes organizational changes. Effective when the act becomes law and applies to requests for alternative apportionment formulas filed on or after that date. Amends the title to reflect the bill content.

July 8, 2010

H 1973. VARIOUS ECONOMIC INCENTIVES. Filed 5/25/10. Conference report recommends the following changes to 6th edition to reconcile matters in controversy.

Deletes section amending GS 105-129.88 (pertaining to the general credit for investing in business property). Makes a conforming change.

Amends GS 105-129.50 (definitions for Article 3F in GS Chapter 105, *Technology Development*) to add that *participating community college* means a community college, as defined in GS 115D-2, that offers an associate in applied science degree in simulation and game development.

Amends GS 105-129.16A(c) (ceilings on credits for investing in renewable energy property) to add, under new GS 105-129.16A(c)(3), that a ceiling of \$5 million applies to each installation of renewable energy property placed in service at an Eco-Industrial Park certified under GS 143B-437.08 for a business purpose, as described (previous version added the eco-industrial park ceiling language to GS 105-129.16A(c)(1)).

Amends GS 105-129.54, as amended by Section 1.7 of Senate Bill 1215 of the 2010 Session of the 2009 General Assembly, to require the Department of Revenue to include specified information in the economic incentives report, itemized *by credit* and by taxpayer. Requires that the credit allowed under GS 105-129.55 be itemized by the categories of small business, low-tier, university research, *Eco-Industrial Park*, and other development. Requires the credit allowed under GS 105-129.56 to be itemized by the categories of *higher education collaboration and other*.

Deletes the percentage provisions in proposed GS 105-129.56(c), and replaces them as follows: the percentage of the credit allowed under the Interactive digital media section is (1) 20% for allowable expenses paid to a participating community college or research university; and (2) 15% for other allowable expenses. Limits the amount of credit allowed *a taxpayer* under the section to \$7.5 million, and clarifies that the credit does not apply to interactive digital media that meets any of the listed descriptions (was, any of the business purposes or subject matter restrictions as listed). Makes a conforming change.

Deletes sections amending GS 57C-2-01 and associated statutes, which recognized the formation of a limited liability company as a low-profit limited liability company and listed applicable requirements.

Deletes sections adding new GS Chapter 153C, Uwharrie Regional Resources Act, and describing its authorities, administrative details, and funding.

Deletes sections amending GS 113A-12, which exempted certain projects from the environmental document requirement under the State Environmental Policy Act.

Deletes sections amending GS 105-130.4, which provided an alternative apportionment formula for certain corporations.

Amends GS 7A-304(a), if Senate Bill 1383 or House Bill 1403 becomes law, to assess a tax of \$2 (was, \$3) to support the DNA database and databank. Also requires that any additional costs needed for implementing the DNA Database Act of 2010, not already specifically provided, will be provided by the Department of Justice from other funds appropriated to the Department. Directs the Department to also pursue and apply for supplementary funds, as needed.

Adds a new section strongly encouraging the Department of Administration to consider the use of multiple award schedule contracts when issuing requests for proposals for state term contracts. Lists the General Assembly's findings related to those contracts.

Makes conforming changes to the title.

July 28, 2010

SL 2010-147 (H 1973). VARIOUS ECONOMIC INCENTIVES. AN ACT TO MODIFY EXISTING ECONOMIC DEVELOPMENT INCENTIVES AND TO INCENT NEW ECONOMIC DEVELOPMENT OPPORTUNITIES; TO PROVIDE FUNDING FOR THE DNA DATABASE AND DATABANK; AND TO ENCOURAGE THE USE OF MULTIPLE AWARD SCHEDULE CONTRACTS WHEN ISSUING REQUESTS FOR PROPOSALS FOR STATE CONTRACTS.

Summarized in *Daily Bulletin* 5/25/10, 6/10/10, 6/16/10, 6/17/10, 7/1/10, 7/6/10, 7/7/10, and 7/8/10. Enacted July 22, 2010. Effective July 22, 2010, except as otherwise provided.