

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1973
Committee Substitute Favorable 6/10/10
PROPOSED COMMITTEE SUBSTITUTE H1973-PCS30525-MCx-33

Short Title: Keep North Carolina Competitive Act.

(Public)

Sponsors:

Referred to:

May 26, 2010

1 A BILL TO BE ENTITLED
2 AN ACT TO EXTEND TAX CREDITS FOR GROWING BUSINESSES; TO REVISE
3 ENVIRONMENTAL STANDARDS WITH RESPECT TO ECONOMIC
4 DEVELOPMENT PROJECTS; TO MODIFY THE REQUIREMENTS FOR AN
5 AGRARIAN GROWTH ZONE; TO REDUCE THE CREDIT FOR INVESTMENTS IN
6 BUSINESS PROPERTY UNDER ARTICLE 3J; TO ENHANCE THE
7 COMPETITIVENESS OF THE CREDIT FOR PRODUCTION COMPANIES; TO
8 ENACT TAX INCENTIVES FOR INTERACTIVE DIGITAL MEDIA COMPANIES; TO
9 EXPAND THE TYPES OF DATACENTERS ELIGIBLE FOR PREFERENTIAL TAX
10 TREATMENT; TO INCREASE THE NUMBER OF INDUSTRIES ELIGIBLE FOR
11 SALES TAX REFUNDS ON BUILDING MATERIALS FOR MAJOR INDUSTRIAL
12 FACILITIES; TO EXTEND SUNSETS ON EXPIRING ECONOMIC DEVELOPMENT
13 TAX BENEFITS; TO PROVIDE ECONOMIC DEVELOPMENT BENEFITS FOR
14 PROJECTS LOCATED IN ECO-PARKS; TO PROVIDE A SALES TAX EXEMPTION
15 FOR CERTAIN WOOD CHIPPERS; AND TO MAKE CHANGES TO PURCHASING
16 AND CONTRACT LAWS.

17 The General Assembly of North Carolina enacts:

18
19 **PART I: EXTEND AND REVISE TAX CREDITS FOR GROWING BUSINESSES**

20
21 **SECTION 1.1.** G.S. 105-129.82(a) reads as rewritten:

22 "(a) Sunset. – This Article is repealed effective for business activities that occur on or
23 after January 1, ~~2011~~2014."

24 **SECTION 1.2.** G.S. 143B-437.010(a) reads as rewritten:

25 "(a) Agrarian Growth Zone Defined. – An agrarian growth zone is an area that meets all
26 of the following conditions:

- 27 (1) It is comprised of one or more contiguous census tracts, census block
28 groups, or both, in the most recent federal decennial census.
29 (2) All of the area is located in whole within a county that has no municipality
30 with a population in excess of 10,000.
31 (3) Every census tract and census block group that comprises the area either has
32 more than twenty percent (20%) of its population below the poverty level or
33 is adjacent to another census tract or census block group in the zone that has



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1 more than twenty percent (20%) of its population below the poverty level
2 according to the most recent federal decennial census.

3 (4) The zone as a whole has more than twenty percent (20%) of its population
4 below the poverty level according to the most recent federal decennial
5 census."

6 **SECTION 1.3.** G.S. 105-129.81 is amended by adding a new subdivision to read:

7 "(9a) Environmental disqualifying event. – Any of the following occurrences:

8 a. During the tax year in which the activity occurred for which a credit
9 is being claimed, a civil penalty was assessed against the taxpayer by
10 the Department of Environment and Natural Resources for failure to
11 comply with an order issued by an agency of the Department to abate
12 or remediate a violation of any program administered by the agency.

13 b. During the tax year in which the activity occurred for which a credit
14 is being claimed or in the prior two tax years, any of the following:

15 1. A finding was made by the Department of Environment and
16 Natural Resources that the taxpayer knowingly and willfully,
17 as defined in G.S. 143-215.6B, including all limitations
18 thereto, committed a violation of any program implemented
19 by an agency of the Department.

20 2. An assessment for damages to fish or wildlife pursuant to
21 G.S. 143-215.3(a)(7) was made against the taxpayer.

22 3. A judicial order for injunctive relief was issued against the
23 taxpayer in connection with a violation of any program
24 implemented by an agency of the Department of Environment
25 and Natural Resources.

26 c. During the tax year in which the activity occurred for which the
27 credit is being claimed or in the prior four tax years, a criminal
28 penalty was imposed on the taxpayer in connection with a violation
29 of any program implemented by an agency of the Department of
30 Environment and Natural Resources."

31 **SECTION 1.4.** G.S. 105-129.83(e) and (i) read as rewritten:

32 "(e) Environmental Impact. – A taxpayer is eligible for a credit allowed under this
33 Article only if the taxpayer certifies that, at the time the taxpayer claims the credit, ~~the taxpayer~~
34 ~~has no pending administrative, civil, or criminal enforcement action based on alleged~~
35 ~~significant violations of any program implemented by an agency of the Department of~~
36 ~~Environment and Natural Resources and has had no final determination of responsibility for~~
37 ~~any significant administrative, civil, or criminal violation of any program implemented by an~~
38 ~~agency of the Department of Environment and Natural Resources within the last five years. A~~
39 ~~significant violation is a violation or alleged violation that does not satisfy any of the conditions~~
40 ~~of G.S. 143-215.6B(d). The Secretary of Environment and Natural Resources shall notify the~~
41 ~~Department of Revenue annually of every person that currently has any of these pending~~
42 ~~actions and every person that has had any of these final determinations within the last five~~
43 ~~years.~~ there has not been a final determination unfavorable to the taxpayer with respect to an
44 environmental disqualifying event. For the purposes of this section, a 'final determination
45 unfavorable to the taxpayer' occurs when there is no further opportunity for the taxpayer to seek
46 administrative or judicial appeal, review, certiorari, or rehearing of the environmental
47 disqualifying event and the disqualifying event has not been reversed or withdrawn. No later
48 than January 31 of each year, the Secretary of Environment and Natural Resources shall
49 provide an annual report to the Department listing all environmental disqualifying events for
50 which a final determination unfavorable to the taxpayer was made in the prior calendar year

1 and shall provide the name of the taxpayer involved and the date that the disqualifying event
2 occurred.

3 ...

4 (i) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the taxpayer
5 was not eligible for the credit for the calendar year in which the taxpayer engaged in the
6 activity for which the credit was claimed. A taxpayer forfeits a credit previously allowed under
7 this Article if a final determination unfavorable to the taxpayer with respect to an
8 environmental disqualifying event is made that is applicable to the year in which the activity
9 occurred for which the credit was claimed. In addition, a taxpayer forfeits a credit for
10 investment in real property under G.S. 105-129.89 if the taxpayer fails to timely create the
11 number of required new jobs or to timely make the required level of investment under
12 G.S. 105-129.89(b). A taxpayer that forfeits a credit under this Article is liable for all past taxes
13 avoided as a result of the credit plus interest at the rate established under G.S. 105-241.21,
14 computed from the date the taxes would have been due if the credit had not been allowed. The
15 past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails
16 to pay the past taxes and interest by the due date is subject to the penalties provided in
17 G.S. 105-236."

18 **SECTION 1.5.** G.S. 143B-437.02(g) reads as rewritten:

19 "(g) Environmental Impact. – A business is eligible for consideration for site
20 development under this part only if the business certifies that, at the time of the application, the
21 business ~~has no pending administrative, civil, or criminal enforcement action based on alleged~~
22 ~~significant violations of any program implemented by an agency of the Department of~~
23 ~~Environment and Natural Resources, and has had no final determination of responsibility for~~
24 ~~any significant administrative, civil, or criminal violation of any program implemented by an~~
25 ~~agency of the Department of Environment and Natural Resources within the last five years. A~~
26 ~~significant violation is a violation or alleged violation that does not satisfy any of the conditions~~
27 ~~of G.S. 143-215.6B(d). The Secretary of Environment and Natural Resources must notify the~~
28 ~~Department of Commerce annually of every person that currently has any of these pending~~
29 ~~actions and every person that has had any of these final determinations within the last five~~
30 ~~years.~~satisfies the environmental impact standard under G.S. 105-129.83."

31 **SECTION 1.6.** G.S. 143B-437.012(h) reads as rewritten:

32 "(h) Environmental Impact. – A business is eligible for consideration for a grant under
33 this section only if the business ~~has no pending administrative, civil, or criminal enforcement~~
34 ~~action based on alleged significant violations of any program implemented by an agency of the~~
35 ~~Department of Environment and Natural Resources and has had no final determination of~~
36 ~~responsibility for any significant administrative, civil, or criminal violation of any program~~
37 ~~implemented by an agency of the Department of Environment and Natural Resources within~~
38 ~~the last three years with respect to the location for which the grant is made. For the purposes of~~
39 ~~this subsection, a significant violation is a violation or alleged violation that does not satisfy~~
40 ~~any of the conditions of G.S. 143-215.6B(d).~~certifies that, at the time of the application, the
41 business satisfies the environmental impact standard under G.S. 105-129.83."

42 **SECTION 1.7.** G.S. 105-129.88 reads as rewritten:

43 **"§ 105-129.88. Credit for investing in business property.**

44 (a) General Credit. – A taxpayer that meets the eligibility requirements set out in
45 G.S. 105-129.83 and that has purchased or leased business property and placed it in service in
46 this State during the taxable year and that has satisfied the threshold requirements of subsection
47 (c) of this section is allowed a credit equal to the applicable percentage of the excess of the
48 eligible investment amount over the applicable threshold. If the taxpayer places business
49 property in service in an urban progress zone or an agrarian growth zone, the applicable
50 percentage is the one for a development tier one area. Business property is eligible if it is not
51 leased to another party. The credit may not be taken for the taxable year in which the business

1 property is placed in service but shall be taken in equal installments over the four years
 2 following the taxable year in which it is placed in service. The applicable percentage is as
 3 follows:

Area Development Tier	Applicable Percentage
Tier One	7%
Tier Two	5%
Tier Three	3.5% <u>2.5%</u>

8 ...
 9 (c) Threshold. – The applicable threshold is the appropriate amount set out in the
 10 following table based on the development tier where the eligible business property is placed in
 11 service during the taxable year. If the taxpayer places business property in service in an urban
 12 progress zone or an agrarian growth zone, the applicable threshold is the one for a development
 13 tier one area. Business property placed in service in an urban progress zone or an agrarian
 14 growth zone is not aggregated with business property placed in service at any other eligible
 15 establishments regardless of county. If the taxpayer places eligible business property in service
 16 at more than one establishment in a county during the taxable year, the threshold applies to the
 17 aggregate amount of eligible business property placed in service during the taxable year at all
 18 establishments in the county. If the taxpayer places eligible business property in service at
 19 establishments in different counties, the threshold applies separately to the aggregate amount of
 20 eligible business property placed in service in each county. If the taxpayer places eligible
 21 business property in service at an establishment over the course of a two-year period, the
 22 applicable threshold for the second taxable year is reduced by the eligible investment amount
 23 for the previous taxable year.

Area Development Tier	Threshold
Tier One	\$ -0-
Tier Two	1,000,000
Tier Three	2,000,000 <u>3,000,000</u>

24"

25 **SECTION 1.8.** Sections 1.5 and 1.6 of this act are effective when they become law
 26 and apply to applications received on or after that date. The remainder of this part is effective
 27 January 1, 2011, and applies to taxable years beginning on or after that date.
 28

29 **PART II: EXPAND TAX CREDITS FOR PRODUCTION COMPANIES**

30 **SECTION 2.1.** G.S. 105-130.47 reads as rewritten:

31 **"§ 105-130.47. Credit for qualifying expenses of a production company.**

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

- 33 (1) ~~Highly compensated individual. – An individual who directly or indirectly~~
 34 ~~receives compensation in excess of one million dollars (\$1,000,000) for~~
 35 ~~personal services with respect to a single production. An individual receives~~
 36 ~~compensation indirectly when a production company pays a personal service~~
 37 ~~company or an employee leasing company that pays the individual.~~
- 38 (2) Live sporting event. – A scheduled sporting competition, game, or race that
 39 is not originated by a production company, but originated solely by an
 40 amateur, collegiate, or professional organization, institution, or association
 41 for live or tape-delayed television or satellite broadcast. A live sporting
 42 event does not include commercial advertising, an episodic television series,
 43 a television pilot, a music video, a motion picture, or a documentary
 44 production in which sporting events are presented through archived
 45 historical footage or similar footage taken at least 30 days before it is used.
- 46 (3) Production company. – Defined in G.S. 105-164.3.

1 (4) Qualifying expenses. – The sum of the following amounts spent in this State
2 by a production company in connection with a ~~production, less the amount~~
3 ~~in excess of one million dollars (\$1,000,000) paid to a highly compensated~~
4 ~~individual:~~production:

- 5 a. Goods and services leased or purchased. For goods with a purchase
6 price of twenty-five thousand dollars (\$25,000) or more, the amount
7 included in qualifying expenses is the purchase price less the fair
8 market value of the good at the time the production is completed.
- 9 b. Compensation and wages ~~on which withholding payments are~~
10 ~~remitted to the Department of Revenue under Article 4A of this~~
11 ~~Chapter for services performed in this State.~~
- 12 c. The cost of production-related insurance coverage obtained on the
13 production. Expenses for insurance coverage purchased from a
14 related member are not qualifying expenses.
- 15 d. Employee fringe contributions, including health, pension, and
16 welfare contributions.
- 17 e. Per diems, stipends, and living allowances paid for work being
18 performed in this State.

19 (5) Related member. – Defined in G.S. 105-130.7A.

20 (b) Credit. – A taxpayer that is a production company and has qualifying expenses of at
21 least two hundred fifty thousand dollars (\$250,000) with respect to a production is allowed a
22 credit against the taxes imposed by this Part equal to ~~fifteen percent (15%)~~ twenty-five percent
23 (25%) of the production company's qualifying expenses. For the purposes of this section, in the
24 case of an episodic television series, an entire season of episodes is one production. The credit
25 is computed based on all of the taxpayer's qualifying expenses incurred with respect to the
26 production, not just the qualifying expenses incurred during the taxable year.

27 ~~(b1) Alternative Credit. – In lieu of the credit allowed under subsection (b) of this~~
28 ~~section, a taxpayer that is a production company and has qualifying expenses of at least two~~
29 ~~hundred fifty thousand dollars (\$250,000) with respect to a production may elect to take a~~
30 ~~credit against the taxes imposed by this Part equal to twenty-five percent (25%) of the~~
31 ~~production company's qualifying expenses less the difference between the amount of tax paid~~
32 ~~on purchases subject to the tax under G.S. 105-187.51 and the amount of sales or use tax that~~
33 ~~would have been due had the purchases been subject to the sales or use tax at the combined~~
34 ~~general rate, as defined in G.S. 105-164.3. The credit is computed based on all of the taxpayer's~~
35 ~~qualifying expenses incurred with respect to the production, not just the qualifying expenses~~
36 ~~incurred during the taxable year. The taxpayer shall elect whether to claim the credit allowed~~
37 ~~under this subsection or the one allowed under subsection (b) of this section at the time the~~
38 ~~taxpayer files the return on which the credit is claimed. This election is binding.~~

39 (c) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and
40 G.S. 105-269.15, a pass-through entity that qualifies for a credit provided in this section does
41 not distribute the credit among any of its owners. The pass-through entity is considered the
42 taxpayer for purposes of claiming a credit allowed by this section. If a return filed by a
43 pass-through entity indicates that the entity is paying tax on behalf of the owners of the entity, a
44 credit allowed under this section does not affect the entity's payment of tax on behalf of its
45 owners.

46 (d) Return. – A taxpayer may claim a credit allowed by this section on a return filed for
47 the taxable year in which the production activities are completed. The return must state the
48 name of the production, a description of the production, and a detailed accounting of the
49 qualifying expenses with respect to which a credit is claimed.

50 (e) Credit Refundable. – If a credit allowed by this section exceeds the amount of tax
51 imposed by this Part for the taxable year reduced by the sum of all credits allowable, the

1 Secretary must refund the excess to the taxpayer. The refundable excess is governed by the
2 provisions governing a refund of an overpayment by the taxpayer of the tax imposed in this
3 Part. In computing the amount of tax against which multiple credits are allowed, nonrefundable
4 credits are subtracted before refundable credits.

5 (f) Limitations. – The amount of credit allowed under this section with respect to a
6 production that is a feature film may not exceed ~~seven-twenty million five hundred thousand~~
7 dollars ~~(\$7,500,000).~~ (\$20,000,000). No credit is allowed under this section for any production
8 that satisfies one of the following conditions:

- 9 (1) It is political advertising.
- 10 (2) It is a television production of a news program or live sporting event.
- 11 (3) It contains material that is obscene, as defined in G.S. 14-190.1.
- 12 (4) It is a radio production.

13 (g) Substantiation. – A taxpayer allowed a credit under this section must maintain and
14 make available for inspection any information or records required by the Secretary of Revenue.
15 The taxpayer has the burden of proving eligibility for a credit and the amount of the credit. The
16 Secretary may consult with the North Carolina Film Office of the Department of Commerce
17 and the regional film commissions in order to determine the amount of qualifying expenses.

18 (h) Report. – The Department of Revenue must publish by May 1 of each year the
19 following information, itemized by taxpayer for the 12-month period ending the preceding
20 December 31:

- 21 (1) The location of sites used in a production for which a credit was taken.
- 22 (2) The qualifying expenses for which a credit was taken, classified by whether
23 the expenses were for goods, services, or compensation paid by the
24 production company.
- 25 (3) The number of people employed in the State with respect to credits taken.
- 26 (4) The total cost to the General Fund of the credits taken.

27 (i) Repealed by Session Laws 2006-220, s. 2, effective for taxable years beginning on
28 or after January 1, 2007.

29 (j) NC Film Office. – To claim a credit under this section, a taxpayer must notify the
30 Division of Tourism, Film, and Sports Development in the Department of Commerce of the
31 taxpayer's intent to claim the production tax credit. The notification must include the title of the
32 production, the name of the production company, a financial contact for the production
33 company, the proposed dates on which the production company plans to begin filming the
34 production, and any other information required by the Division. For productions that have
35 production credits, a taxpayer claiming a credit under this section must acknowledge in the
36 production credits both the North Carolina Film Office and the regional film office responsible
37 for the geographic area in which the filming of the production occurred.

38 (k) Sunset. – This section is repealed for qualifying expenses occurring on or after
39 January 1, 2014."

40 **SECTION 2.2.** G.S. 105-151.29 reads as rewritten:

41 "**§ 105-151.29. Credit for qualifying expenses of a production company.**

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

- 43 ~~(1) Highly compensated individual. – An individual who directly or indirectly~~
44 ~~receives compensation in excess of one million dollars (\$1,000,000) for~~
45 ~~personal services with respect to a single production. An individual receives~~
46 ~~compensation indirectly when a production company pays a personal service~~
47 ~~company or an employee leasing company that pays the individual.~~

- 48 (2) Live sporting event. – A scheduled sporting competition, game, or race that
49 is not originated by a production company, but originated solely by an
50 amateur, collegiate, or professional organization, institution, or association
51 for live or tape-delayed television or satellite broadcast. A live sporting

1 event does not include commercial advertising, an episodic television series,
2 a television pilot, a music video, a motion picture, or a documentary
3 production in which sporting events are presented through archived
4 historical footage or similar footage taken at least 30 days before it is used.

5 (3) Production company. – Defined in G.S. 105-164.3.

6 (4) Qualifying expenses. – The sum of the following amounts spent in this State
7 by a production company in connection with a production, ~~less the amount~~
8 ~~paid in excess of one million dollars (\$1,000,000) to a highly compensated~~
9 ~~individual:~~production:

10 a. Goods and services leased or purchased. For goods with a purchase
11 price of twenty-five thousand dollars (\$25,000) or more, the amount
12 included in qualifying expenses is the purchase price less the fair
13 market value of the good at the time the production is completed.

14 b. Compensation and wages ~~on which withholding payments are~~
15 ~~remitted to the Department of Revenue under Article 4A of this~~
16 ~~Chapter.~~for services performed in this State.

17 c. The cost of production-related insurance coverage obtained on the
18 production. Expenses for insurance coverage purchased from a
19 related member are not qualifying expenses.

20 d. Employee fringe contributions, including health, pension, and
21 welfare contributions.

22 e. Per diems, stipends, and living allowances paid for work being
23 performed in this State.

24 (5) Related member. – Defined in G.S. 105-130.7A.

25 (b) Credit. – A taxpayer that is a production company and has qualifying expenses of at
26 least two hundred fifty thousand dollars (\$250,000) with respect to a production is allowed a
27 credit against the taxes imposed by this Part equal to ~~fifteen percent (15%)~~twenty-five percent
28 (25%) of the production company's qualifying expenses. For the purposes of this section, in the
29 case of an episodic television series, an entire season of episodes is one production. The credit
30 is computed based on all of the taxpayer's qualifying expenses incurred with respect to the
31 production, not just the qualifying expenses incurred during the taxable year.

32 ~~(b1) Alternative Credit. — In lieu of the credit allowed under subsection (b) of this~~
33 ~~section, a taxpayer that is a production company and has qualifying expenses of at least two~~
34 ~~hundred fifty thousand dollars (\$250,000) with respect to a production may elect to take a~~
35 ~~credit against the taxes imposed by this Part equal to twenty-five percent (25%) of the~~
36 ~~production company's qualifying expenses less the difference between the amount of tax paid~~
37 ~~on purchases subject to the tax under G.S. 105-187.51 and the amount of sales or use tax that~~
38 ~~would have been due had the purchases been subject to the sales or use tax at the combined~~
39 ~~general rate, as defined in G.S. 105-164.3. The credit is computed based on all of the taxpayer's~~
40 ~~qualifying expenses incurred with respect to the production, not just the qualifying expenses~~
41 ~~incurred during the taxable year. The taxpayer shall elect whether to claim the credit allowed~~
42 ~~under this subsection or the one allowed under subsection (b) of this section at the time the~~
43 ~~taxpayer files the return on which the credit is claimed. This election is binding.~~

44 (c) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and
45 G.S. 105-269.15, a pass-through entity that qualifies for a credit provided in this section does
46 not distribute the credit among any of its owners. The pass-through entity is considered the
47 taxpayer for purposes of claiming a credit allowed by this section. If a return filed by a
48 pass-through entity indicates that the entity is paying tax on behalf of the owners of the entity, a
49 credit allowed under this section does not affect the entity's payment of tax on behalf of its
50 owners.

1 (d) Return. – A taxpayer may claim a credit allowed by this section on a return filed for
2 the taxable year in which the production activities are completed. The return must state the
3 name of the production, a description of the production, and a detailed accounting of the
4 qualifying expenses with respect to which a credit is claimed.

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

11 (f) Limitations. – The amount of credit allowed under this section with respect to a
12 production that is a feature film may not exceed ~~seven-twenty million five hundred thousand~~
13 ~~dollars (\$7,500,000).~~ dollars (\$20,000,000). No credit is allowed under this section for any production
14 that satisfies one of the following conditions:

- 15 (1) It is political advertising.
- 16 (2) It is a television production of a news program or live sporting event.
- 17 (3) It contains material that is obscene, as defined in G.S. 14-190.1.
- 18 (4) It is a radio production.

19 (g) Substantiation. – A taxpayer allowed a credit under this section must maintain and
20 make available for inspection any information or records required by the Secretary of Revenue.
21 The taxpayer has the burden of proving eligibility for a credit and the amount of the credit. The
22 Secretary may consult with the North Carolina Film Office of the Department of Commerce
23 and the regional film commissions in order to determine the amount of qualifying expenses.

24 (h) Report. – The Department of Revenue must publish by May 1 of each year the
25 following information, itemized by taxpayer for the 12-month period ending the preceding
26 December 31:

- 27 (1) The location of sites used in a production for which a credit was taken.
- 28 (2) The qualifying expenses for which a credit was taken, classified by whether
29 the expenses were for goods, services, or compensation paid by the
30 production company.
- 31 (3) The number of people employed in the State with respect to credits taken.
- 32 (4) The total cost to the General Fund of the credits taken.

33 (i) Repealed by Session Laws 2006-220, s. 4, effective for taxable years beginning on
34 and after January 1, 2007.

35 (j) NC Film Office. – To claim a credit under this section, a taxpayer must notify the
36 Division of Tourism, Film, and Sports Development in the Department of Commerce of the
37 taxpayer's intent to claim the production tax credit. The notification must include the title of the
38 production, the name of the production company, a financial contact for the production
39 company, the proposed dates on which the production company plans to begin filming the
40 production, and any other information required by the Division. For productions that have
41 production credits, a taxpayer claiming a credit under this section must acknowledge in the
42 production credits both the North Carolina Film Office and the regional film office responsible
43 for the geographic area in which the filming of the production occurred.

44 (k) Sunset. – This section is repealed for qualifying expenses occurring on or after
45 January 1, 2014."

46 **SECTION 2.3.** The General Assembly finds that cameras, film, and props or
47 building materials used in the construction of sets which are used in the actual filming of
48 movies for sale, lease, or rental and chemicals and equipment used to develop and edit film
49 which is used to produce release prints are not taxable under Article 5F of Chapter 105 of the
50 General Statutes and are, therefore, subject to sales and use tax under Article 5 of Chapter 105
51 of the General Statutes unless another exemption applies.

1 **SECTION 2.4.** Section 2.3 of this act becomes effective January 1, 2011, and
2 applies to purchases and sales made on or after that date. The remainder of this part is effective
3 for taxable years beginning on or after January 1, 2011.

4
5 **PART III: CREATE TAX CREDITS FOR PRODUCERS OF INTERACTIVE DIGITAL**
6 **MEDIA**

7
8 **SECTION 3.1.** Chapter 105 of the General Statutes is amended by adding a new
9 Article to read:

10 "Article 3L.
11 "Interactive Digital Media.

12 **"§ 105-129.105. Definitions.**

13 The following definitions apply in this Article:

- 14 (1) Company headquarters. – Defined in G.S. 105-129.81.
15 (2) Full-time job. – A position that requires at least 1,600 hours of work per year
16 and is intended to be held by one employee during the entire year. A
17 full-time employee is an employee who holds a full-time job.
18 (3) Gold master. – The version of interactive digital media released to a
19 manufacturer.
20 (4) Interactive digital media. – Products that are intended for commercial use or
21 distribution or sale under contract to business, government, or nonprofit
22 organizations and that satisfy each of the conditions listed in this
23 subdivision. The term also includes interactive digital platforms and engines.
24 The term does not include products that are interpersonal communications
25 services such as videoconferencing, wireless communications, text-based
26 channels, or chat rooms.
27 a. The product is produced for distribution on electronic media,
28 including file downloads over the Internet.
29 b. The product contains a computer-controlled virtual universe with
30 which users may interact in order to achieve a goal.
31 c. The product contains an appreciable amount of at least three of the
32 five following types of data: text, sound, fixed images, animated
33 images, and 3D geometry.
34 (5) Qualifying expenses. – The sum of the total amount spent in this State for
35 the following by a producer of interactive digital media in connection with
36 the production of interactive digital media:
37 a. Production property purchased or leased.
38 b. Compensation and wages for services performed in this State.
39 c. Employee fringe contributions, including health, pension, and
40 welfare contributions.
41 d. Per diems, stipends, and living allowances paid for work being
42 performed in this State.
43 (6) Production. – A project to create interactive digital media from the time of
44 preproduction to the creation of a gold master or the completion of the
45 interactive digital media. The development of an interactive digital platform
46 or engine is a separate, single production.
47 (7) Production property. – Tangible personal property and intangible property
48 that is directly used in the production of interactive digital media. The term
49 includes such items as software, computer code, image files, music files,
50 scripts and plays, concept mock-ups, software tools, and testing procedures.

51 **"§ 105-129.106. Administration; limitations; sunset.**

1 (a) Minimum Standards. – A taxpayer is eligible for the credits allowed in this Article if
2 it satisfies the requirements of G.S. 105-129.83(c), (d), (e), (f), and (g) relating to wage
3 standard, health insurance, environmental impact, safety and health programs, and overdue tax
4 debts, respectively.

5 (b) Allocation. – A credit allowed under this Article may be taken against the franchise
6 tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter.
7 The taxpayer must elect the tax against which a credit will be claimed when filing the return on
8 which the credit is first claimed. This election is binding. Any carryforwards of a credit must be
9 claimed against the same tax.

10 (c) Cap. – A credit allowed under this Article may not exceed fifty percent (50%) of the
11 amount of tax against which it is claimed for the taxable year, reduced by the sum of all other
12 credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This
13 limitation applies to the cumulative amount of credit, including carryforwards, claimed by the
14 taxpayer under this Article against the tax for the taxable year. Any unused portion of a credit
15 allowed in this Article may be carried forward for the succeeding eight years.

16 (d) Limitations. – A taxpayer that claims or has claimed a credit under this Article with
17 respect to a facility is not eligible to receive a grant under Part 2G of Article 10 of Chapter
18 143B of the General Statutes (Job Development Investment Grant Program) or Part 2H of
19 Article 10 of Chapter 143B of the General Statutes (One North Carolina Fund).

20 (e) Sunset. – This Article is repealed for taxable years beginning on or after January 1,
21 2014.

22 **"§ 105-129.108. Substantiation.**

23 To claim a credit allowed by this Article, the taxpayer must provide any information
24 required by the Secretary. Every taxpayer claiming a credit under this Article must maintain
25 and make available for inspection by the Secretary any records the Secretary considers
26 necessary to determine and verify the amount of the credit to which the taxpayer is entitled.
27 The burden of proving eligibility for a credit and the amount of the credit rests upon the
28 taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or
29 to make them available for inspection.

30 **"§ 105-129.109. Reports.**

31 The Department must publish by May 1 of each year the following information, itemized
32 by credit and taxpayer, for the 12-month period ending the preceding December 31:

33 (1) The qualifying expenses for which a credit was claimed, classified by
34 whether the expenses were production property or compensation or wages.

35 (2) The number of people employed in the State with respect to credits claimed.

36 (3) The total cost to the General Fund of the credits claimed.

37 **"§ 105-129.110. Production credit.**

38 (a) Credit. – A taxpayer that has qualifying expenses of at least fifty thousand dollars
39 (\$50,000) with respect to an interactive digital media production is allowed a credit equal to
40 fifteen percent (15%) of all qualifying expenses of the taxpayer for which the taxpayer has not
41 already claimed a credit under this Article. The credit is computed based on all of the taxpayer's
42 qualifying expenses incurred with respect to the production, not just the qualifying expenses
43 incurred during the taxable year.

44 (b) Limitations. – No credit is allowed under this section for any production that
45 satisfies one of the following conditions:

46 (1) It is gambling or casino games.

47 (2) It is a project done for academic credit.

48 (3) It is a production that is developed internally by the taxpayer for internal use.

49 (4) It is political advertising.

50 (5) It contains material that is obscene, as defined in G.S. 14-190.1, or that is
51 harmful to minors, as defined in G.S. 14-190.13.

1 (6) It is an Internet site that is primarily static and primarily designed to provide
2 information about one or more persons, businesses, companies, or firms.

3 (c) No Double Credit. – A taxpayer that claims a credit under this section may not also
4 claim a credit under Article 3J of this Chapter with respect to jobs whose compensation or
5 wages are included in the calculation of the credit under this section or with respect to business
6 property, the cost of which is included in the calculation of the credit under this section.

7 **"§ 105-129.111. Headquarters credit.**

8 (a) Eligibility. – A taxpayer that is primarily engaged in the production of interactive
9 digital media is eligible for a credit under this section with respect to a company headquarters if
10 the taxpayer creates at least 20 new full-time jobs at the company headquarters within a
11 24-month period and maintains those jobs for at least three years. A taxpayer that meets this job
12 creation requirement is eligible for credits under this section with respect to jobs created during
13 the three taxable years beginning with the year in which the 24-month period in which the job
14 creation requirement is satisfied begins. A taxpayer that creates an additional 20 new full-time
15 jobs at the company headquarters in a 24-month period during a three-year eligibility period
16 does not qualify for any extended eligibility period. However, a taxpayer that creates an
17 additional 20 new full-time jobs at the company headquarters in a 24-month period after the
18 completion of a three-year eligibility period is eligible for credits with respect to the company
19 headquarters for an additional three taxable years beginning in the year in which the additional
20 job creation requirement is satisfied. A job that is a transferred job, as defined in
21 G.S. 105-129.87(e), is not a new job for purposes of this Article.

22 (b) Credit. – A taxpayer that satisfies the eligibility requirement of subsection (a) of this
23 section and has qualifying expenditures related to the production of interactive digital media in
24 this State during the taxable year is eligible for a credit for each new full-time job created at the
25 company headquarters. The credit is equal to five thousand dollars (\$5,000) for each new
26 full-time job. The entire credit is taken in the taxable year in which the job is created.

27 (c) Calculation. – The number of new jobs a taxpayer creates or maintains during the
28 taxable year is determined by subtracting the average number of full-time jobs the taxpayer had
29 in this State during the 12-month period preceding the beginning of the taxable year from the
30 average number of full-time jobs the taxpayer has in this State during the taxable year.

31 (d) Forfeiture. – A taxpayer forfeits a credit allowed under this section if the taxpayer
32 fails to maintain the job for at least three years. A taxpayer that forfeits a credit under this
33 section is liable for all past taxes avoided as a result of the credit plus interest at the rate
34 established under G.S. 105-241.21, computed from the date the taxes would have been due if
35 the credit had not been allowed. The past taxes and interest are due 30 days after the date the
36 credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is
37 subject to the penalties provided in G.S. 105-236.

38 (e) Limitations. – The maximum cumulative credit that may be claimed by a taxpayer
39 under this section is five hundred thousand dollars (\$500,000).

40 (f) No Double Credit. – A taxpayer that claims a credit under this section may not also
41 claim a job creation credit under Article 3J of this Chapter with respect to the same job. The
42 compensation or wages, employee fringe contributions, per diems, stipends, and living
43 allowances for a job for which a credit is claimed under this section for the year for which the
44 credit is claimed may not be used in computing the credit allowed under G.S. 105-129.110."

45 **SECTION 3.2.** If House Bill 1880, 2009 General Assembly, becomes law, then
46 G.S. 105-129.109, as enacted by this act, reads as rewritten:

47 **"§ 105-129.109. Reports.**

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

- 1 (1) The qualifying expenses for which a credit was claimed, classified by
- 2 whether the expenses were production property or compensation or wages.
- 3 (2) The number of people employed in the State with respect to credits claimed.
- 4 (3) The total cost to the General Fund of the credits claimed."

5 **SECTION 3.3.** This part is effective for taxable years beginning on or after
6 January 1, 2011, and applies to productions commenced on or after that date.

7
8 **PART IV: ENHANCE SALES TAX BENEFITS FOR DATACENTERS AND MAJOR**
9 **INDUSTRIAL FACILITIES**

10
11 **SECTION 4.1.** G.S. 105-164.3 reads as rewritten:

12 "The following definitions apply in this Article:

13 ...

14 (5c) Datacenter. – A facility that provides infrastructure for hosting or data
15 processing services and that has power and cooling systems that are created
16 and maintained to be concurrently maintainable and to include redundant
17 capacity components and multiple distribution paths serving the computer
18 equipment at the facility. Although the facility must have multiple
19 distribution paths serving the computer equipment, a single distribution path
20 may serve the computer equipment at any one time. The facility may be
21 comprised of a structure or series of structures located or to be located (i) on
22 a single parcel of land, (ii) on contiguous parcels of land that are commonly
23 owned or owned by affiliation with the operator of that facility, or (iii) on
24 noncontiguous parcels of land that are commonly owned or owned by
25 affiliation with the operator of that facility but only if the structures located
26 thereon are linked through fiber optic or similar connection and form part of
27 the same operating unit of a company. The following definitions apply in
28 this subdivision:

- 29 a. Concurrently maintainable. – Capable of having any capacity
30 component or distribution element serviced or repaired on a planned
31 basis without interrupting or impeding the performance of the
32 computer equipment.
- 33 b. Multiple distribution paths. – A series of distribution paths
34 configured to ensure that failure on one distribution path does not
35 interrupt or impede other distribution paths.
- 36 c. Redundant capacity components. – Components beyond those
37 required to support the computer equipment.

38 ...

39 (8e) Eligible Internet datacenter. – A datacenter that satisfies each of the
40 following conditions:

- 41 a. The facility is used primarily or is to be used primarily by a business
42 engaged in ~~"Internet service providers and Web search portals"~~
43 ~~industry 51811, as defined by NAICS.~~ one or more of the following:
 - 44 1. Providing clients access to the Internet and related services.
45 Related services may include Web hosting, Web page
46 designing, and hardware or software consulting related to
47 Internet connectivity. The business may provide local,
48 regional, or national coverage for clients or provide backbone
49 services, other than telecommunications carriers, for other
50 Internet service providers. The business must have the

- 1 equipment and telecommunication network access required
- 2 for a point-of-presence on the Internet.
- 3 2. Publishing or communicating or both of one or more of
- 4 textual, audio, or video content of general or specific interest
- 5 to or within a Web-based community found on the Internet
- 6 exclusively and not in a traditional, non-Internet version.
- 7 3. Operating Web sites that use a search engine to generate and
- 8 maintain extensive databases of Internet addresses and
- 9 content in an easily searchable format. The business may
- 10 provide additional Internet services, including e-mail,
- 11 connections to other Web sites, auctions, news, or other
- 12 content, or may serve as a home base for Internet users.
- 13 b. ~~The facility is comprised of a structure or series of structures located~~
- 14 ~~or to be located on a single parcel of land or on contiguous parcels of~~
- 15 ~~land that are commonly owned or owned by affiliation with the~~
- 16 ~~operator of that facility.~~
- 17 c. The facility is located or to be located in a county that was
- 18 designated, at the time of application for the written determination
- 19 required under sub-subdivision d. of this subdivision, either an
- 20 enterprise tier one, two, or three area or a development tier one or
- 21 two area pursuant to G.S. 105-129.3 or G.S. 143B-437.08, regardless
- 22 of any subsequent change in county enterprise or development tier
- 23 status.
- 24 d. The Secretary of Commerce has made a written determination that at
- 25 least two hundred fifty million dollars (\$250,000,000) in private
- 26 funds has been or will be invested in real property or eligible
- 27 business property, or a combination of both, at the facility within five
- 28 years after the commencement of construction of the facility.

...."

SECTION 4.2. G.S. 105-164.13(55) reads as rewritten:

"(55) Sales of electricity for use at an eligible Internet data center and eligible business property to be located and used at an eligible Internet data center. As used in this subdivision, "eligible business property" is property that is capitalized for tax purposes under the Code and is used either:

- a. For the provision of ~~Internet service or Web search portal services~~a service as contemplated by G.S. 105-164.3(8e)a., including equipment cooling systems for managing the performance of the property.
- b. For the generation, transformation, transmission, distribution, or management of electricity, including exterior substations and other business personal property used for these purposes.
- c. To provide related computer engineering or computer science research.

If the level of investment required by G.S. 105-164.3(8e)d. is not timely made, then the exemption provided under this subdivision is forfeited. If the level of investment required by G.S. 105-164.3(8e)d. is timely made but any specific eligible business property is not located and used at an eligible Internet ~~data center, datacenter,~~ then the exemption provided for ~~such that~~ eligible business property under this subdivision is forfeited. If the level of investment required by G.S. 105-164.3(8e)d. is timely made but any portion of the electricity is not used at an eligible Internet ~~data center, datacenter,~~

1 then the exemption provided for ~~such that~~ electricity under this subdivision
 2 is forfeited. A taxpayer that forfeits an exemption under this subdivision is
 3 liable for all past taxes avoided as a result of the forfeited exemption,
 4 computed from the date the taxes would have been due if the exemption had
 5 not been allowed, plus interest at the rate established under G.S. 105-241.21.
 6 If the forfeiture is triggered due to the lack of a timely investment required
 7 by G.S. 105-164.3(8e)d., then interest is computed from the date the taxes
 8 would have been due if the exemption had not been allowed. For all other
 9 forfeitures, interest is computed from the time as of which the eligible
 10 business property or electricity was put to a disqualifying use. The past taxes
 11 and interest are due 30 days after the date the exemption is forfeited. A
 12 taxpayer that fails to pay the past taxes and interest by the due date is subject
 13 to the provisions of G.S. 105-236."

14 **SECTION 4.3.** G.S. 105-164.14(j) reads as rewritten:

15 "(j) Certain Industrial Facilities. – The owner of an eligible facility is allowed an annual
 16 refund of sales and use taxes as provided in this subsection.

17 ...

18 (2) Eligibility. – A facility is eligible under this subsection if it meets all of the
 19 following conditions:

20 ...

21 e. If the facility is primarily engaged in paper-from-pulp
 22 manufacturing, the owner of the facility creates at least 200
 23 additional jobs, and the business pays an average weekly wage at the
 24 facility equal to or greater than the average wage of the county. In
 25 making the wage calculation, the business must include any jobs that
 26 were filled for at least 1,600 hours during the calendar year.

27 (3) Industries. – This subsection applies to the following industries:

28 ...

29 i. Paper-from-pulp manufacturing. – Paper-from-pulp manufacturing
 30 means an industry primarily engaged in manufacturing or converting
 31 paper, other than newsprint or uncoated groundwood paper, from
 32 pulp or pulp products, or in converting purchased sanitary paper
 33 stock or wadding into sanitary paper products.

34 ...

35 o. Turbine and turbine generator set units manufacturing. – Turbine and
 36 turbine generator set units manufacturing means an industry
 37 primarily engaged in manufacturing turbines (except aircraft) or
 38 complete turbine generator set units, such as steam, hydraulic, gas,
 39 and wind.

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

51"

1 **SECTION 4.4.** G.S. 105-187.50(2) reads as rewritten:

2 "**§ 105-187.50. Definitions.**

3 The definitions in G.S. 105-164.3 apply in this Article. In addition, the following
4 definitions apply in this Article:

5 (1) Repealed by Session Laws 2009-451, s. 27A.3(v), effective August 7, 2009.

6 (2) Eligible datacenter. – A datacenter that satisfies each of the following
7 conditions:

8 a. Repealed by Session Laws 2009-451, s. 27A.3(v), effective August
9 7, 2009.

10 b. The Secretary of Commerce has made a written determination of the
11 following:

12 1. For ~~facilities~~datacenters that are located entirely in a
13 development tier one area at the time of application for the
14 written determination, that at least one hundred fifty million
15 dollars (\$150,000,000) in private funds has been or will be
16 invested in improvements to real property or installed
17 datacenter machinery and equipment, or a combination
18 thereof, within five years of the date on which the first
19 qualifying improvement is made, regardless of any
20 subsequent change in county development tier status.

21 2. For ~~facilities~~datacenters that are not located entirely in a
22 development tier one area at the time of application for the
23 written determination, that at least three hundred million
24 dollars (\$300,000,000) in private funds has been or will be
25 invested in improvements to real property or installed
26 datacenter machinery and equipment, or a combination
27 thereof, within five years of the date on which the first
28 qualifying improvement is made, regardless of any
29 subsequent change in county development tier status.

30 c. The ~~facility~~datacenter satisfies the wage standard and health
31 insurance requirements of G.S. 105-129.83."

32 **SECTION 4.5.** G.S. 105-187.51C(d) reads as rewritten:

33 "(d) Sunset. – This section expires for sales occurring on or after July 1, ~~2013-2015.~~"

34 **SECTION 4.6.** This part becomes effective July 1, 2010, and applies to sales and
35 purchases made on or after that date.

36 37 **PART V: EXTEND EXISTING TAX BENEFITS FOR ECONOMIC DEVELOPMENT**

38
39 **SECTION 5.1.** G.S. 105-129.16D(d) reads as rewritten:

40 "**§ 105-129.16D. Credit for constructing renewable fuel facilities.**

41 ...

42 (d) Sunset. – This section is repealed effective for facilities placed in service on or after
43 January 1, ~~2011-2014.~~"

44 **SECTION 5.2.** G.S. 105-129.16F(b) reads as rewritten:

45 "**§ 105-129.16F. Credit for biodiesel producers.**

46 ...

47 (b) Sunset. – This section is repealed for taxable years beginning on or after January 1,
48 ~~2010-2014.~~"

49 **SECTION 5.3.** G.S. 105-164.14 reads as rewritten:

50 "**§ 105-164.14. Certain refunds authorized.**

51 ...

1 (a1) Passenger Plane Maximum. – An interstate passenger air carrier is allowed a refund
 2 of the net amount of sales and use tax paid by it in this State on fuel during a calendar year in
 3 excess of two million five hundred thousand dollars (\$2,500,000). The "net amount of sales and
 4 use tax paid" is the amount paid less the refund allowed under subsection (a) of this section. A
 5 request for a refund must be in writing and must include any information and documentation
 6 the Secretary requires. A request for a refund is due within six months after the end of the
 7 calendar year for which the refund is claimed. The refund allowed by this subsection is in
 8 addition to the refund allowed in subsection (a) of this section. This subsection is repealed for
 9 purchases made on or after January 1, ~~2011~~2014.

10 ...

11 (l) Aviation Fuel for Motorsports Events. – A professional motorsports racing team or
 12 a motorsports sanctioning body is allowed a refund of the sales and use tax paid by it in this
 13 State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel
 14 to a motorsports event in another state from a location in this State, or to travel to this State
 15 from a motorsports event in another state. For the purposes of this subsection, a "motorsports
 16 event" includes a motorsports race, a motorsports sponsor event, and motor sports testing. A
 17 request for a refund must be in writing and must include any information and documentation
 18 the Secretary requires. A request for a refund is due within six months after the end of the
 19 State's fiscal year. Refunds applied for after the due date are barred. This subsection is repealed
 20 for purchases made on or after January 1, ~~2011~~2014.

21"

22 **SECTION 5.4.** This part is effective when it becomes law.

23
 24 **PART VI: CREATE ECONOMIC DEVELOPMENT INCENTIVES FOR ECO-PARKS**

25
 26 **SECTION 6.1.** G.S. 143B-437.08 is amended by adding a new subsection to read:

27 "(j) Exception for Eco-Industrial Park. – An Eco-Industrial Park has a development tier
 28 one designation. An Eco-Industrial Park is an industrial park that the Secretary of Commerce
 29 has certified meets the following requirements:

30 (1) It has at least 100 developable acres.

31 (2) It is located in a county that is not required under G.S. 143-215.107A to
 32 perform motor vehicles emissions inspections.

33 (3) Each building located in the industrial park is constructed in accordance with
 34 energy-efficiency and water-use standards established in G.S. 143-135.37
 35 for construction of a major facility.

36 (4) Each business located in the park is in a clean-industry sector according to
 37 the Toxic Release Inventory by the United States Environmental Protection
 38 Agency."

39 **SECTION 6.2.** G.S. 143B-437.4 reads as rewritten:

40 "~~§ 143B-437.4. NC Green Business Fund established as a special revenue fund and grant~~
 41 ~~program.~~

42 (a) ~~Establishment.~~Fund. – The NC Green Business Fund is established as a special
 43 revenue fund in the Department of Commerce, and the Department shall be responsible for
 44 administering the Fund.

45 (b) Purposes. – Moneys in the NC Green Business Fund shall be allocated pursuant to
 46 this subsection. The Department of Commerce shall make grants from the Fund to private
 47 businesses with less than 100 employees, nonprofit organizations, local governments, and State
 48 agencies to encourage the expansion of small to medium size businesses with less than 100
 49 employees to help grow a green economy in the State. Moneys in the NC Green Business Fund
 50 shall be used for projects that will focus on the following three priority ~~areas~~areas listed in this
 51 subsection. In selecting between projects that are within a priority area, a project that is located

1 in an Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable
2 project that is not located in a certified Eco-Industrial Park. The priority areas are:

- 3 (1) To encourage the development of the biofuels industry in the State. The
4 Department of Commerce may make grants available to maximize
5 development, production, distribution, retail infrastructure, and consumer
6 purchase of biofuels in North Carolina, including grants to enhance biofuels
7 workforce development.
- 8 (2) To encourage the development of the green building industry in the State.
9 The Department of Commerce may make grants available to assist in the
10 development and growth of a market for environmentally conscious and
11 energy efficient green building processes. Grants may support the
12 installation, certification, or distribution of green building materials; energy
13 audits; and marketing and sales of green building technology in North
14 Carolina, including grants to enhance workforce development for green
15 building processes.
- 16 (3) To attract and leverage private-sector investments and entrepreneurial
17 growth in environmentally conscious clean technology and renewable
18 energy products and businesses, including grants to enhance workforce
19 development in such businesses.

20 (c) Cap and Matching Funds. – The Department of Commerce may set a cap on a grant
21 from the NC Green Business Fund and may require a private business to provide matching
22 funds for a grant from the Fund. A grant to a project located in an Eco-Industrial Park certified
23 under G.S. 143B-437.08 is not subject to a cap or a requirement to provide matching funds."

24 **SECTION 6.3.** G.S. 143B-437.52(b) reads as rewritten:

25 "(b) ~~Cap.~~ Cap and Priority. – The maximum number of grants the Committee may
26 award in each calendar year is 25. In selecting between applicants, a project that is located in an
27 Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable project
28 that is not located in a certified Eco-Industrial Park."

29 **SECTION 6.4.** G.S. 105-129.16A(c)(1) reads as rewritten:

30 "(c) Ceilings. – The credit allowed by this section may not exceed the applicable ceilings
31 provided in this subsection.

- 32 (1) Nonresidential Property. – A ceiling of two million five hundred thousand
33 dollars (\$2,500,000) per installation applies to renewable energy property
34 that is placed in service outside an Eco-Industrial Park certified under
35 G.S. 143B-437.08 and is for any purpose other than residential. A ceiling of
36 five million dollars (\$5,000,000) per installation applies to renewable energy
37 property that is placed in service in a certified Eco-Industrial Park and is for
38 any purpose other than residential."

39 **SECTION 6.5.** G.S. 105-129.55 reads as rewritten:

40 **"§ 105-129.55. Credit for North Carolina research and development.**

41 (a) Qualified North Carolina Research Expenses. – A taxpayer that has qualified North
42 Carolina research expenses for the taxable year is allowed a credit equal to a percentage of the
43 expenses, determined as provided in this ~~subsection-section~~. Only one credit is allowed under
44 this ~~subsection-section~~ with respect to the same expenses. If more than one subdivision of this
45 ~~subsection-section~~ applies to the same expenses, then the credit is equal to the higher
46 percentage, not both percentages combined. If part of the taxpayer's qualified North Carolina
47 research expenses qualifies under more than one subdivision (2) of this ~~subsection and the~~
48 ~~remainder qualifies under subdivision (3) of this subsection-section~~, the applicable percentages
49 apply separately to each part of the expenses.

- 1 (1) Small business. – If the taxpayer was a small business as of the last day of
- 2 the taxable year, the applicable percentage is three and one-quarter percent
- 3 (3.25%).
- 4 (2) Low-tier research. – For expenses with respect to research performed in a
- 5 development tier one area, the applicable percentage is three and one-quarter
- 6 percent (3.25%).
- 7 (2a) University research. – For North Carolina university research expenses, the
- 8 applicable percentage is twenty percent (20%).
- 9 (2b) Eco-Industrial Park. – For expenses with respect to research performed in an
- 10 Eco-Industrial Park certified under G.S. 143B-437.08, the applicable
- 11 percentage is thirty-five percent (35%).
- 12 (3) Other research. – For expenses not covered under another subdivision (1) ~~or~~
- 13 ~~(2)~~ of this ~~subsection, section,~~ the percentages provided in the table below
- 14 apply to the taxpayer's qualified North Carolina research expenses during the
- 15 taxable year at the following levels:

Expenses Over	Up To	Rate
-0-	\$50 million	1.25%
\$50 million	\$200 million	2.25%
\$200 million	–	3.25%

20 ~~(b) North Carolina University Research Expenses. – A taxpayer that has North Carolina~~
 21 ~~university research expenses for the taxable year is allowed a credit equal to twenty percent~~
 22 ~~(20%) of the expenses."~~

23 **SECTION 6.6.** Sections 6.4 and 6.5 of this act are effective for taxable years
 24 beginning on or after January 1, 2011. The remainder of this part is effective when it becomes
 25 law. Sections 6.2 and 6.3 of this act apply to grant applications submitted on or after July 1,
 26 2010.

27
 28 **PART VII: TREAT WOOD CHIPPERS LIKE OTHER COMMERCIAL LOGGING**
 29 **EQUIPMENT**

30
 31 **SECTION 7.1.** G.S. 105-164.13 is amended by adding a new subdivision to read:
 32 "**§ 105-164.13. Retail sales and use tax.**

33 The sale at retail and the use, storage, or consumption in this State of the following tangible
 34 personal property, digital property, and services are specifically exempted from the tax imposed
 35 by this Article:

- 36 ...
- 37 (4g) Sales of wood chipping machinery to which is assigned a 17-digit vehicle
- 38 identification number specified by the National Highway Transportation
- 39 Safety Association. For the purpose of this section, "wood chipping
- 40 machinery" is machinery used to convert raw forest products into wood
- 41 chips.

42"

43 **SECTION 7.2.** This part becomes effective July 1, 2010, and applies to sales made
 44 on or after that date.

45
 46 **PART VIII: PURCHASING AND CONTRACT CHANGES TO BENEFIT NORTH**
 47 **CAROLINA BUSINESSES**

48
 49 **SECTION 8.1.** Chapter 143 of the General Statutes is amended by adding a new
 50 section to read:

1 "§ 143-131.1. Small project bidding by State agencies, boards, commissions, and
2 institutions.

3 (a) All contracts for construction or repair work involving the expenditure of public
4 money in the amount of thirty thousand dollars (\$30,000) or more, but less than the limits
5 prescribed in G.S. 143-129, made by State agencies, boards, commissions, and institutions shall
6 be made after informal bids have been secured. Informal solicitation for informal bids shall
7 include small resident bidders to the extent practicable. A 'small resident bidder' is a bidder that
8 meets the requirements for a resident bidder under G.S. 143-59(c) and that can certify that its
9 gross revenues for its last completed fiscal year did not exceed one million five hundred
10 thousand dollars (\$1,500,000).

11 (b) The Department of Administration may identify projects or classes of projects
12 within its control that are likely to attract substantial participation by small resident bidders and
13 to restrict solicitation and award of contracts on those projects to small resident bidders.

14 (c) All contracts let pursuant to this section shall be awarded to the lowest responsible,
15 responsive bidder, taking into consideration quality, performance, and the time specified in the
16 bids for the performance of the contract.

17 (d) The Department of Administration may waive any bonding requirements of Chapter
18 44A of the General Statutes for contracts let under this section.

19 (e) The Secretary of Administration may adopt rules to administer the provisions of this
20 section."

21 **SECTION 8.2.(a)** The General Assembly makes the following findings:

- 22 (1) A multiple award schedule contract is one that allows multiple vendors to be
23 awarded a State contract for goods or services by providing their total
24 catalogue for lines of equipment and attachments to eligible purchasers,
25 including State agencies, departments, institutions, public school districts,
26 political subdivisions, and higher education facilities.
- 27 (2) A multiple award schedule contract allows multiple vendors to compete and
28 be awarded a contract based upon the value of their products or services.
- 29 (3) A properly administered multiple award schedule contract allows the State to
30 evaluate vendors based on a variety of factors, including discounts, total life
31 cycle costs, service, warranty, distribution channel, and past vendor
32 performance.
- 33 (4) Under appropriate circumstances, multiple award schedule contracts result in
34 competitive pricing, transparency, administrative savings, expedited
35 procurement, and flexibility for State purchasers.

36 **SECTION 8.2.(b)** The North Carolina Department of Administration is strongly
37 encouraged to consider the use of multiple award schedule contracts when issuing requests for
38 proposals for State term contracts.

39 **SECTION 8.3.** Section 8.1 of this act becomes effective October 1, 2010, and is
40 repealed effective January 1, 2013. The remainder of this part becomes effective July 1, 2010.

41
42 **PART IX: EFFECTIVE DATE**

43
44 **SECTION 9.1.** Except as otherwise provided, this act is effective when it becomes
45 law.