

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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Short Title: Various Economic Incentives. (Public)

Sponsors:

Referred to:

May 26, 2010

A BILL TO BE ENTITLED

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.

The General Assembly of North Carolina enacts:

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

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

"(a) Sunset. – This Article is repealed effective for business activities that occur on or after January 1, ~~2011~~2013."

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

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

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

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

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



\* H 1 9 7 3 - P C S 3 0 5 4 - S V - 1 \*

- 1                   a.     During the tax year in which the activity occurred for which a credit  
2                   is being claimed, a civil penalty was assessed against the taxpayer by  
3                   the Department of Environment and Natural Resources for failure to  
4                   comply with an order issued by an agency of the Department to abate  
5                   or remediate a violation of any program administered by the agency.  
6                   b.     During the tax year in which the activity occurred for which a credit  
7                   is being claimed or in the prior two tax years, any of the following:  
8                   1.     A finding was made by the Department of Environment and  
9                   Natural Resources that the taxpayer knowingly and willfully,  
10                  as defined in G.S. 143-215.6B, including all limitations  
11                  thereto, committed a violation of any program implemented  
12                  by an agency of the Department.  
13                  2.     An assessment for damages to fish or wildlife pursuant to  
14                  G.S. 143-215.3(a)(7) was made against the taxpayer.  
15                  3.     A judicial order for injunctive relief was issued against the  
16                  taxpayer in connection with a violation of any program  
17                  implemented by an agency of the Department of Environment  
18                  and Natural Resources.  
19                  c.     During the tax year in which the activity occurred for which the  
20                  credit is being claimed or in the prior four tax years, a criminal  
21                  penalty was imposed on the taxpayer in connection with a violation  
22                  of any program implemented by an agency of the Department of  
23                  Environment and Natural Resources."

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

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

46                   ...

47                   (i) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the taxpayer  
48 was not eligible for the credit for the calendar year in which the taxpayer engaged in the  
49 activity for which the credit was claimed. A taxpayer forfeits a credit previously allowed under  
50 this Article if a final determination unfavorable to the taxpayer with respect to an  
51 environmental disqualifying event is made that is applicable to the year in which the activity

1 occurred for which the credit was claimed. In addition, a taxpayer forfeits a credit for  
2 investment in real property under G.S. 105-129.89 if the taxpayer fails to timely create the  
3 number of required new jobs or to timely make the required level of investment under  
4 G.S. 105-129.89(b). A taxpayer that forfeits a credit under this Article is liable for all past taxes  
5 avoided as a result of the credit plus interest at the rate established under G.S. 105-241.21,  
6 computed from the date the taxes would have been due if the credit had not been allowed. The  
7 past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails  
8 to pay the past taxes and interest by the due date is subject to the penalties provided in  
9 G.S. 105-236."

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

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

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

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

34 **SECTION 1.7.** Sections 1.3 and 1.4 of this Part are effective for credits claimed for  
35 taxable years beginning on or after January 1, 2007. Sections 1.5 and 1.6 of this Part are  
36 effective when they become law and apply to all agreements in effect on or entered into on or  
37 after that date.

## 38 39 **PART II: EXPAND TAX CREDITS FOR PRODUCTION COMPANIES**

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

41 **"§ 105-130.47. 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

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

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

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

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

15 b. Compensation and wages on which withholding payments are  
16 remitted to the Department of Revenue under Article 4A of this  
17 Chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48 "**§ 105-151.29. Credit for qualifying expenses of a production company.**

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

- 50 (1) Highly compensated individual. – An individual who directly or indirectly  
51 receives compensation in excess of one million dollars (\$1,000,000) for

1 personal services with respect to a single production. An individual receives  
2 compensation indirectly when a production company pays a personal service  
3 company or an employee leasing company that pays the individual.

4 (2) Live sporting event. – A scheduled sporting competition, game, or race that  
5 is not originated by a production company, but originated solely by an  
6 amateur, collegiate, or professional organization, institution, or association  
7 for live or tape-delayed television or satellite broadcast. A live sporting  
8 event does not include commercial advertising, an episodic television series,  
9 a television pilot, a music video, a motion picture, or a documentary  
10 production in which sporting events are presented through archived  
11 historical footage or similar footage taken at least 30 days before it is used.

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

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

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

21 b. Compensation and wages on which withholding payments are  
22 remitted to the Department of Revenue under Article 4A of this  
23 Chapter.

24 c. The cost of production-related insurance coverage obtained on the  
25 production. Expenses for insurance coverage purchased from a  
26 related member are not qualifying expenses.

27 d. Employee fringe contributions, including health, pension, and  
28 welfare contributions.

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

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

32 (b) Credit. – A taxpayer that is a production company and has qualifying expenses of at  
33 least two hundred fifty thousand dollars (\$250,000) with respect to a production is allowed a  
34 credit against the taxes imposed by this Part equal to ~~fifteen percent (15%)~~twenty-five percent  
35 (25%) of the production company's qualifying expenses. For the purposes of this section, in the  
36 case of an episodic television series, an entire season of episodes is one production. The credit  
37 is computed based on all of the taxpayer's qualifying expenses incurred with respect to the  
38 production, not just the qualifying expenses incurred during the taxable year.

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

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

8 (d) Return. – A taxpayer may claim a credit allowed by this section on a return filed for  
9 the taxable year in which the production activities are completed. The return must state the  
10 name of the production, a description of the production, and a detailed accounting of the  
11 qualifying expenses with respect to which a credit is claimed. The qualifying expenses are  
12 subject to audit by the Secretary before the credit is allowed.

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

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

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

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

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

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

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

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

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

3 **SECTION 2.3.** G.S. 105-187.51 is amended by adding a new subsection to read:  
4 "**§ 105-187.51. Tax imposed on mill machinery.**

5 (a) Scope. – A privilege tax is imposed on the following persons:

6 (1) A manufacturing industry or plant that purchases mill machinery or mill  
7 machinery parts or accessories for storage, use, or consumption in this State.

8 A manufacturing industry or plant does not include the following:

9 a. ~~a~~-A delicatessen, cafe, cafeteria, restaurant, or another similar retailer  
10 that is principally engaged in the retail sale of foods prepared by it  
11 for consumption on or off its premises.

12 b. A production company.

13 (2) A contractor or subcontractor that purchases mill machinery or mill  
14 machinery parts or accessories for use in the performance of a contract with  
15 a manufacturing industry or plant.

16 (3) A subcontractor that purchases mill machinery or mill machinery parts or  
17 accessories for use in the performance of a contract with a general contractor  
18 that has a contract with a manufacturing industry or plant.

19 (b) Rate. – The tax is one percent (1%) of the sales price of the machinery, part, or  
20 accessory purchased. The maximum tax is eighty dollars (\$80.00) per article. As used in this  
21 section, the term "accessories" does not include electricity."

22 **SECTION 2.4.** This Part becomes effective January 1, 2011. Sections 2.1 and 2.2  
23 of this Part apply to taxable years beginning on or after January 1, 2011. Section 2.3 of this Part  
24 applies to purchases and sales made on or after January 1, 2011.

### 25 **PART III: TAX CREDIT FOR DEVELOPING INTERACTIVE DIGITAL MEDIA**

26 **SECTION 3.1.** The title of Article 3F of Chapter 105 of the General Statutes reads  
27 as rewritten:

28 "Article 3F.

29 ~~Research and Technology Development."~~

30 **SECTION 3.2.** G.S. 105-129.50 reads as rewritten:

31 "**§ 105-129.50. Definitions.**

32 The definitions in section 41 of the Code apply in this Article. In addition, the following  
33 definitions apply in this Article:

34 (1) ~~through (3)~~-Reserved.

35 (2) Full-time job. – Defined in G.S. 105-129.81.

36 (3) Reserved.

37 (4) North Carolina university research expenses. – Any amount the taxpayer  
38 paid or incurred to a research university for qualified research performed in  
39 this State or basic research performed in this State.

40 (4a) Participating community college. – A community college, as defined in  
41 G.S. 115D-2, that offers an associate in applied science degree in simulation  
42 and game development.

43 (5) Period of measurement. – Defined in the Small Business Size Regulations of  
44 the federal Small Business Administration.

45 (6) Qualified North Carolina research expenses. – Qualified research expenses,  
46 other than North Carolina university research expenses, for research  
47 performed in this State.

48 (7) Receipts. – Defined in the Small Business Size Regulations of the federal  
49 Small Business Administration.  
50  
51



- 1 (8) Related person. – Defined in G.S. 105-163.010.  
2 (9) Research university. – An institution of higher education that meets one or  
3 both of the following conditions:  
4 a. It is classified as one of the following in the most recent edition of  
5 "A Classification of Institutions of Higher Education", the official  
6 report of The Carnegie Foundation for the Advancement of  
7 Teaching:  
8 1. Doctoral/Research Universities, Extensive or Intensive.  
9 2. Masters Colleges and Universities, I or II.  
10 3. Baccalaureate Colleges, Liberal Arts or General.  
11 b. It is a constituent institution of The University of North Carolina.  
12 (10) Small business. – A business whose annual receipts, combined with the  
13 annual receipts of all related persons, for the applicable period of  
14 measurement did not exceed one million dollars (\$1,000,000)."

15 **SECTION 3.3.** G.S. 105-129.51 reads as rewritten:

16 **"§ 105-129.51. ~~Administration;~~ Taxpayer standards and sunset.**

17 (a) A taxpayer is eligible for ~~the~~ a credit allowed in this Article if it satisfies the  
18 requirements of G.S. 105-129.83(c), (d), (e), ~~and (f)(f), and (g)~~ relating to wage standard, health  
19 insurance, environmental impact, ~~and~~ safety and health programs, and overdue tax debts,  
20 respectively.

21 (b) This Article is repealed for taxable years beginning on or after January 1, 2014.

22 (c) Repealed by Session Laws 2004-124, s. 32D.4, effective for taxable years beginning  
23 on or after January 1, 2006."

24 **SECTION 3.4.** G.S. 150-129.52 reads as rewritten:

25 **"§ 105-129.52. Tax election; cap.**

26 (a) Tax Election. – ~~The~~ A credit allowed in this Article is allowed against the franchise  
27 tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter.  
28 The taxpayer must elect the tax against which a credit will be claimed when filing the return on  
29 which the credit is first claimed. This election is binding. Any carryforwards of a credit must be  
30 claimed against the same tax.

31 (b) Cap. – A credit allowed in this Article may not exceed fifty percent (50%) of the  
32 amount of tax against which it is claimed for the taxable year, reduced by the sum of all other  
33 credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This  
34 limitation applies to the cumulative amount of credit, including carryforwards, claimed by the  
35 taxpayer under this Article against each tax for the taxable year. Any unused portion of a credit  
36 allowed in this Article may be carried forward for the succeeding 15 years."

37 **SECTION 3.5.** G.S. 105-129.54, as amended by Section 1.7 of Senate Bill 1215 of  
38 the 2010 Session of the 2009 General Assembly, reads as rewritten:

39 **"§ 105-129.54. Report.**

40 The Department must include in the economic incentives report required by G.S. 105-256  
41 the following information itemized by credit and by taxpayer:

- 42 (1) The number of taxpayers that took a credit allowed in this ~~Article,~~Article.  
43 The credit allowed under G.S. 105-129.55 must be itemized by the  
44 categories of small business, low-tier, ~~other, and university research-~~  
45 university research, Eco-Industrial Park, and other. The credit allowed under  
46 G.S. 105-129.56 must be itemized by the categories of higher education  
47 collaboration and other.  
48 (2) The amount of each credit taken in each category.  
49 (3) The total cost to the General Fund of the credits taken."

50 **SECTION 3.6.** Article 3F of Chapter 105 of the General Statutes is amended by  
51 adding a new section to read:

1 **"§ 105-129.56. Interactive digital media.**

2 (a) IDM Defined. – Interactive digital media is a product that meets all of the following  
3 requirements:

4 (1) It is produced for distribution on electronic media, including distribution by  
5 file download over the Internet.

6 (2) It contains a computer-controlled virtual universe with which an individual  
7 who uses the program may interact in order to achieve a goal.

8 (3) It contains a significant amount of at least three of the following five types  
9 of data: animated images, fixed images, sound, text, and 3D geometry.

10 (b) Credit. – A taxpayer that develops in this State interactive digital media or a digital  
11 platform or engine for use in interactive digital media is allowed a credit equal to a percentage  
12 of the taxpayer's expenses that exceed fifty thousand dollars (\$50,000) and that are paid during  
13 the taxable year in developing the media, platform, or engine. The percentage that applies to the  
14 expenses is determined under subsection (c) of this section. The expenses to which the credit  
15 applies are as follows:

16 (1) Compensation and wages for a full-time job on which withholding payments  
17 are remitted to the Department under Article 4A of this Chapter.

18 (2) Employee fringe contributions on compensation and wages included under  
19 subdivision (1) of this subsection, including health, pension, and welfare  
20 contributions.

21 (3) Amounts paid to a participating community college or a research university  
22 for services performed in this State.

23 (c) Percentage. – The percentage of the credit allowed under this section is as follows:

24 (1) Higher education collaboration. – Twenty percent (20%) for allowable  
25 expenses paid to a participating community college or a research university.

26 (2) Other. – Fifteen percent (15%) for allowable expenses not covered in  
27 subdivision (1) of this subsection.

28 (d) Limitations. – The amount of credit allowed a taxpayer under this section may not  
29 exceed seven million five hundred thousand dollars (\$7,500,000). The credit allowed by this  
30 section does not apply to interactive digital media that meets any of the following descriptions:

31 (1) It is developed by the taxpayer for internal use.

32 (2) It is an interpersonal communications service, such as videoconferencing,  
33 wireless telecommunications, a text-based channel, or a chat room.

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

36 (4) It is a gambling or casino game.

37 (5) It is political advertising.

38 (6) It contains material that is obscene, as defined in G.S. 14-190.1, or that is  
39 harmful to minors, as defined in G.S. 14-190.13.

40 (e) No Double Benefit. – A taxpayer that claims a credit under this section may not  
41 claim any of the following with respect to the expenses used to determine the credit under this  
42 section:

43 (1) A credit allowed under any other section of this Chapter.

44 (2) A grant from the Job Development Investment Grant Program, set out in  
45 Part 2G of Article 10 of Chapter 143B of the General Statutes.

46 (3) A grant from the One North Carolina Fund, set out in Part 2H of Article 10  
47 of Chapter 143B of the General Statutes."

48 **SECTION 3.7.** This Part is effective for taxable years beginning on or after  
49 January 1, 2011.

50

1 **PART IV: EXTEND SUNSET FOR TAX CREDIT FOR RECYCLING OYSTER**  
2 **SHELLS**

3  
4 **SECTION 4.1.** G.S. 105-130.48(f) reads as rewritten:

5 "(f) Sunset. – This section is repealed effective for taxable years beginning on or after  
6 January 1, 2011-January 1, 2013."

7 **SECTION 4.2.** G.S. 105-151.30(f) reads as rewritten:

8 "(f) Sunset. – This section is repealed effective for taxable years beginning on or after  
9 January 1, 2011-January 1, 2013."

10 **SECTION 4.3.** This Part is effective when it becomes law.

11  
12 **PART V: CREATE ECONOMIC DEVELOPMENT INCENTIVES FOR ECO-PARKS**

13  
14 **SECTION 5.1.** G.S. 143B-437.08 is amended by adding a new subsection to read:

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

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

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

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

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

27 **SECTION 5.2.** G.S. 143B-437.4 reads as rewritten:

28 "**§ 143B-437.4. NC Green Business Fund established as a special revenue fund and grant**  
29 **program.**

30 (a) Establishment.—Fund. – The NC Green Business Fund is established as a special  
31 revenue fund in the Department of Commerce, and the Department shall be responsible for  
32 administering the Fund.

33 (b) Purposes. – Moneys in the NC Green Business Fund shall be allocated pursuant to  
34 this subsection. The Department of Commerce shall make grants from the Fund to private  
35 businesses with less than 100 employees, nonprofit organizations, local governments, and State  
36 agencies to encourage the expansion of small to medium size businesses with less than 100  
37 employees to help grow a green economy in the State. Moneys in the NC Green Business Fund  
38 shall be used for projects that will focus on the following three priority ~~areas:~~ areas listed in this  
39 subsection. In selecting between projects that are within a priority area, a project that is located  
40 in an Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable  
41 project that is not located in a certified Eco-Industrial Park. The priority areas are:

42 (1) To encourage the development of the biofuels industry in the State. The  
43 Department of Commerce may make grants available to maximize  
44 development, production, distribution, retail infrastructure, and consumer  
45 purchase of biofuels in North Carolina, including grants to enhance biofuels  
46 workforce development.

47 (2) To encourage the development of the green building industry in the State.  
48 The Department of Commerce may make grants available to assist in the  
49 development and growth of a market for environmentally conscious and  
50 energy efficient green building processes. Grants may support the  
51 installation, certification, or distribution of green building materials; energy

1 audits; and marketing and sales of green building technology in North  
2 Carolina, including grants to enhance workforce development for green  
3 building processes.

- 4 (3) To attract and leverage private-sector investments and entrepreneurial  
5 growth in environmentally conscious clean technology and renewable  
6 energy products and businesses, including grants to enhance workforce  
7 development in such businesses.

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

12 **SECTION 5.3.** G.S. 143B-437.52(b) reads as rewritten:

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

17 **SECTION 5.4.** G.S. 105-129.16A(c) is amended by adding a new subdivision to  
18 read:

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

21 ...

- 22 (3) Eco-Industrial Park. – A ceiling of five million dollars (\$5,000,000) applies  
23 to each installation of renewable energy property placed in service at an  
24 Eco-Industrial Park certified under G.S. 143B-437.08 for a business purpose  
25 described in subdivision (1) of this subsection."

26 **SECTION 5.5.** G.S. 105-129.55 reads as rewritten:

27 **"§ 105-129.55. Credit for North Carolina research and development.**

28 (a) Qualified North Carolina Research Expenses. – A taxpayer that has qualified North  
29 Carolina research expenses for the taxable year is allowed a credit equal to a percentage of the  
30 expenses, determined as provided in this ~~subsection~~-section. Only one credit is allowed under  
31 this ~~subsection~~-section with respect to the same expenses. If more than one subdivision of this  
32 ~~subsection~~-section applies to the same expenses, then the credit is equal to the higher  
33 percentage, not both percentages combined. If part of the taxpayer's qualified North Carolina  
34 research expenses qualifies under more than one subdivision (2) of this ~~subsection~~ and the  
35 ~~remainder qualifies under subdivision (3) of this subsection~~, section, the applicable percentages  
36 apply separately to each part of the expenses.

- 37 (1) Small business. – If the taxpayer was a small business as of the last day of  
38 the taxable year, the applicable percentage is three and one-quarter percent  
39 (3.25%).

- 40 (2) Low-tier research. – For expenses with respect to research performed in a  
41 development tier one area, the applicable percentage is three and one-quarter  
42 percent (3.25%).

- 43 (2a) University research. – For North Carolina university research expenses, the  
44 applicable percentage is twenty percent (20%).

- 45 (2b) Eco-Industrial Park. – For expenses with respect to research performed in an  
46 Eco-Industrial Park certified under G.S. 143B-437.08, the applicable  
47 percentage is thirty-five percent (35%).

- 48 (3) Other research. – For expenses not covered under another subdivision (1) ~~or~~  
49 (2) of this ~~subsection~~, section, the percentages provided in the table below  
50 apply to the taxpayer's qualified North Carolina research expenses during the  
51 taxable year at the following levels:

|   | Expenses Over | Up To         | Rate  |
|---|---------------|---------------|-------|
| 1 |               |               |       |
| 2 | -0-           | \$50 million  | 1.25% |
| 3 | \$50 million  | \$200 million | 2.25% |
| 4 | \$200 million | —             | 3.25% |

5 (b) ~~North Carolina University Research Expenses. A taxpayer that has North Carolina~~  
6 ~~university research expenses for the taxable year is allowed a credit equal to twenty percent~~  
7 ~~(20%) of the expenses."~~

8 **SECTION 5.6.** Sections 5.1, 5.4, and 5.5 of this Part are effective for taxable years  
9 beginning on or after January 1, 2011. The remainder of this Part is effective when it becomes  
10 law. Sections 5.2 and 5.3 of this Part apply to grant applications submitted on or after July 1,  
11 2010.

## 13 PART VI: SALES TAX EXEMPTION FOR WOOD CHIPPER

15 **SECTION 6.1.** G.S. 105-164.13 is amended by adding a new subdivision to read:  
16 "**§ 105-164.13. Retail sales and use tax.**

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

20 ...

21 (4g) A wood chipper that meets all of the following requirements:

22 a. It is designed to be towed by a motor vehicle.

23 b. It is assigned a 17-digit vehicle identification number by the National  
24 Highway Transportation Safety Association.

25 c. It is sold to a person who purchases a motor vehicle in this State that  
26 is to be registered in another state and who uses the purchased motor  
27 vehicle to tow the wood chipper to the state in which the purchased  
28 motor vehicle is to be registered.

29 ...."

30 **SECTION 6.2.** This Part becomes effective July 1, 2009, and applies to sales made  
31 on or after that date.

## 33 PART VII: FUNDING FOR THE DNA DATABASE AND DATABANK

35 **SECTION 7.1.** If Senate Bill 1383 or House Bill 1403, 2010 Regular Session of  
36 the 2009 General Assembly, become law, then G.S. 7A-304(a) reads as rewritten:

37 "(a) In every criminal case in the superior or district court, wherein the defendant is  
38 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the  
39 prosecuting witness, the following costs shall be assessed and collected, except that when the  
40 judgment imposes an active prison sentence, costs shall be assessed and collected only when  
41 the judgment specifically so provides, and that no costs may be assessed when a case is  
42 dismissed.

43 ...

44 (9) For the support and services of the State Bureau of Investigation DNA  
45 Database and DNA Databank, the sum of two dollars (\$2.00). This amount  
46 is annually appropriated to the Department of Justice for this purpose.  
47 Notwithstanding the provisions of subsection (e) of this section, this cost  
48 does not apply to infractions."

49 **SECTION 7.2.** Any additional costs needed for the implementation of the  
50 provisions of the DNA Database Act of 2010 as enacted by Senate Bill 1383 or House Bill  
51 1403, 2010 Regular Session of the 2009 General Assembly, that are not specifically provided

1 for by this Part shall be provided by the Department of Justice from other funds appropriated to  
2 the Department. The Department of Justice shall pursue and apply for funds to supplement any  
3 amounts needed to implement the provisions of the DNA Database Act of 2010 from grants,  
4 the federal government, or any other available sources.

5 **SECTION 7.3.** This Part becomes effective October 1, 2010, and applies to court  
6 costs imposed or collected on or after that date, except that in misdemeanor cases disposed of  
7 on or after that date by written appearance, waiver of trial or hearing, and plea of guilty or  
8 admission of responsibility pursuant to G.S. 7A-180(4) or G.S. 7A-273(2) in which the citation  
9 or other criminal process was issued before that date, the cost shall be the lesser of the cost  
10 specified in G.S. 7A-304(a), as amended by this Part, or the cost specified in the notice portion  
11 of the defendant's or respondent's copy of the citation or other criminal process, if any costs are  
12 specified in that notice.

## 13 14 **PART VIII: ENCOURAGE THE USE OF MULTIPLE AWARD SCHEDULE** 15 **CONTRACTS**

16  
17 **SECTION 8.1.** The General Assembly makes the following findings:

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

32 **SECTION 8.2.** The North Carolina Department of Administration is strongly  
33 encouraged to consider the use of multiple award schedule contracts when issuing requests for  
34 proposals for State term contracts.

35 **SECTION 8.3.** This Part is effective when it becomes law.

## 36 37 **PART IX: EFFECTIVE DATE**

38  
39 **SECTION 9.** Except as otherwise provided, this act is effective when it becomes  
40 law.