

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

**SESSION LAW 2010-147  
HOUSE BILL 1973**

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 – This Article is repealed effective for business activities that occur on or after January 1, ~~2011~~2013."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

- a. During the tax year in which the activity occurred for which a credit is being claimed, a civil penalty was assessed against the taxpayer by the Department of Environment and Natural Resources for failure to comply with an order issued by an agency of the Department to abate or remediate a violation of any program administered by the agency.
- b. During the tax year in which the activity occurred for which a credit is being claimed or in the prior two tax years, any of the following:
  1. A finding was made by the Department of Environment and Natural Resources that the taxpayer knowingly and willfully, as defined in G.S. 143-215.6B, including all limitations thereto, committed a violation of any program implemented by an agency of the Department.



2. An assessment for damages to fish or wildlife pursuant to G.S. 143-215.3(a)(7) was made against the taxpayer.
  3. A judicial order for injunctive relief was issued against the taxpayer in connection with a violation of any program implemented by an agency of the Department of Environment and Natural Resources.
- c. During the tax year in which the activity occurred for which the credit is being claimed or in the prior four tax years, a criminal penalty was imposed on the taxpayer in connection with a violation of any program implemented by an agency of the Department of Environment and Natural Resources."

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

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

...

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

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

"(g) Environmental Impact. – A business is eligible for consideration for site development under this part only if the business certifies that, at the time of the application, the

~~business has no pending administrative, civil, or criminal enforcement action based on alleged significant violations of any program implemented by an agency of the Department of Environment and Natural Resources, and has had no final determination of responsibility for any significant administrative, civil, or criminal violation of any program implemented by an agency of the Department of Environment and Natural Resources within the last five years. A significant violation is a violation or alleged violation that does not satisfy any of the conditions of G.S. 143-215.6B(d). The Secretary of Environment and Natural Resources must notify the Department of Commerce annually of every person that currently has any of these pending actions and every person that has had any of these final determinations within the last five years.~~satisfies the environmental impact standard under G.S. 105-129.83."

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

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

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

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

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

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

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

- (1) Highly compensated individual. – An individual who directly or indirectly receives compensation in excess of one million dollars (\$1,000,000) for personal services with respect to a single production. An individual receives compensation indirectly when a production company pays a personal service company or an employee leasing company that pays the individual.
- (2) Live sporting event. – A scheduled sporting competition, game, or race that is not originated by a production company, but originated solely by an amateur, collegiate, or professional organization, institution, or association for live or tape-delayed television or satellite broadcast. A live sporting event does not include commercial advertising, an episodic television series, a television pilot, a music video, a motion picture, or a documentary production in which sporting events are presented through archived historical footage or similar footage taken at least 30 days before it is used.
- (3) Production company. – Defined in G.S. 105-164.3.
- (4) Qualifying expenses. – The sum of the following amounts spent in this State by a production company in connection with a production, less the amount in excess of one million dollars (\$1,000,000) paid to a highly compensated individual:
  - a. Goods and services leased or purchased. For goods with a purchase price of twenty-five thousand dollars (\$25,000) or more, the amount

included in qualifying expenses is the purchase price less the fair market value of the good at the time the production is completed.

- b. Compensation and wages on which withholding payments are remitted to the Department of Revenue under Article 4A of this Chapter.
- c. The cost of production-related insurance coverage obtained on the production. Expenses for insurance coverage purchased from a related member are not qualifying expenses.
- d. Employee fringe contributions, including health, pension, and welfare contributions.
- e. Per diems, stipends, and living allowances paid for work being performed in this State.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (3) Production company. – Defined in G.S. 105-164.3.
- (4) Qualifying expenses. – The sum of the following amounts spent in this State by a production company in connection with a production, less the amount paid in excess of one million dollars (\$1,000,000) to a highly compensated individual:
  - a. Goods and services leased or purchased. For goods with a purchase price of twenty-five thousand dollars (\$25,000) or more, the amount included in qualifying expenses is the purchase price less the fair market value of the good at the time the production is completed.
  - b. Compensation and wages on which withholding payments are remitted to the Department of Revenue under Article 4A of this Chapter.
  - c. The cost of production-related insurance coverage obtained on the production. Expenses for insurance coverage purchased from a related member are not qualifying expenses.
  - d. Employee fringe contributions, including health, pension, and welfare contributions.
  - e. Per diems, stipends, and living allowances paid for work being performed in this State.
- (5) Related member. – Defined in G.S. 105-130.7A.

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

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 2.3.** G.S. 105-187.51 is amended by adding a new subsection to read:

**"§ 105-187.51. Tax imposed on mill machinery.**

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

- (1) A manufacturing industry or plant that purchases mill machinery or mill machinery parts or accessories for storage, use, or consumption in this State. A manufacturing industry or plant does not include the following:
  - a. ~~a~~ A delicatessen, cafe, cafeteria, restaurant, or another similar retailer that is principally engaged in the retail sale of foods prepared by it for consumption on or off its premises.
  - b. A production company.

- (2) A contractor or subcontractor that purchases mill machinery or mill machinery parts or accessories for use in the performance of a contract with a manufacturing industry or plant.
  - (3) A subcontractor that purchases mill machinery or mill machinery parts or accessories for use in the performance of a contract with a general contractor that has a contract with a manufacturing industry or plant.
- (b) Rate. – The tax is one percent (1%) of the sales price of the machinery, part, or accessory purchased. The maximum tax is eighty dollars (\$80.00) per article. As used in this section, the term "accessories" does not include electricity."

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

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

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

"Article 3F.  
~~Research and Technology Development.~~"

**SECTION 3.2.** G.S. 105-129.50 reads as rewritten:  
**"§ 105-129.50. Definitions.**

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

- (1) ~~through (3):~~ Reserved.
- (2) Full-time job. – Defined in G.S. 105-129.81.
- (3) Reserved.
- (4) North Carolina university research expenses. – Any amount the taxpayer paid or incurred to a research university for qualified research performed in this State or basic research performed in this State.
- (4a) Participating community college. – A community college, as defined in G.S. 115D-2, that offers an associate in applied science degree in simulation and game development.
- (5) Period of measurement. – Defined in the Small Business Size Regulations of the federal Small Business Administration.
- (6) Qualified North Carolina research expenses. – Qualified research expenses, other than North Carolina university research expenses, for research performed in this State.
- (7) Receipts. – Defined in the Small Business Size Regulations of the federal Small Business Administration.
- (8) Related person. – Defined in G.S. 105-163.010.
- (9) Research university. – An institution of higher education that meets one or both of the following conditions:
  - a. It is classified as one of the following in the most recent edition of "A Classification of Institutions of Higher Education", the official report of The Carnegie Foundation for the Advancement of Teaching:
    - 1. Doctoral/Research Universities, Extensive or Intensive.
    - 2. Masters Colleges and Universities, I or II.
    - 3. Baccalaureate Colleges, Liberal Arts or General.
  - b. It is a constituent institution of The University of North Carolina.

- (10) Small business. – A business whose annual receipts, combined with the annual receipts of all related persons, for the applicable period of measurement did not exceed one million dollars (\$1,000,000)."

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

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

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

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

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

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

**"§ 105-129.52. Tax election; cap.**

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

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

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

**"§ 105-129.54. Report.**

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

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

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

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

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

- (1) It is produced for distribution on electronic media, including distribution by file download over the Internet.
- (2) It contains a computer-controlled virtual universe with which an individual who uses the program may interact in order to achieve a goal.
- (3) It contains a significant amount of at least three of the following five types of data: animated images, fixed images, sound, text, and 3D geometry.

(b) Credit. – A taxpayer that develops in this State interactive digital media or a digital platform or engine for use in interactive digital media is allowed a credit equal to a percentage

of the taxpayer's expenses that exceed fifty thousand dollars (\$50,000) and that are paid during the taxable year in developing the media, platform, or engine. The percentage that applies to the expenses is determined under subsection (c) of this section. The expenses to which the credit applies are as follows:

- (1) Compensation and wages for a full-time job on which withholding payments are remitted to the Department under Article 4A of this Chapter.
  - (2) Employee fringe contributions on compensation and wages included under subdivision (1) of this subsection, including health, pension, and welfare contributions.
  - (3) Amounts paid to a participating community college or a research university for services performed in this State.
- (c) Percentage. – The percentage of the credit allowed under this section is as follows:
- (1) Higher education collaboration. – Twenty percent (20%) for allowable expenses paid to a participating community college or a research university.
  - (2) Other. – Fifteen percent (15%) for allowable expenses not covered in subdivision (1) of this subsection.
- (d) Limitations. – The amount of credit allowed a taxpayer under this section may not exceed seven million five hundred thousand dollars (\$7,500,000). The credit allowed by this section does not apply to interactive digital media that meets any of the following descriptions:
- (1) It is developed by the taxpayer for internal use.
  - (2) It is an interpersonal communications service, such as videoconferencing, wireless telecommunications, a text-based channel, or a chat room.
  - (3) It is an Internet site that is primarily static and primarily designed to provide information about one or more persons, businesses, companies, or firms.
  - (4) It is a gambling or casino game.
  - (5) It is political advertising.
  - (6) It contains material that is obscene, as defined in G.S. 14-190.1, or that is harmful to minors, as defined in G.S. 14-190.13.
- (e) No Double Benefit. – A taxpayer that claims a credit under this section may not claim any of the following with respect to the expenses used to determine the credit under this section:
- (1) A credit allowed under any other section of this Chapter.
  - (2) A grant from the Job Development Investment Grant Program, set out in Part 2G of Article 10 of Chapter 143B of the General Statutes.
  - (3) A grant from the One North Carolina Fund, set out in Part 2H of Article 10 of Chapter 143B of the General Statutes."

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

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

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

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

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

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

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

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

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

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

- (1) It has at least 100 developable acres.
- (2) It is located in a county that is not required under G.S. 143-215.107A to perform motor vehicle emissions inspections.
- (3) Each building located in the industrial park is constructed in accordance with energy-efficiency and water-use standards established in G.S. 143-135.37 for construction of a major facility.
- (4) Each business located in the park is in a clean-industry sector according to the Toxic Release Inventory by the United States Environmental Protection Agency."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<b>Expenses Over</b>	<b>Up To</b>	<b>Rate</b>
-0-	\$50 million	1.25%
\$50 million	\$200 million	2.25%
\$200 million	—	3.25%

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

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

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

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

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

- ...
- (4g) A wood chipper that meets all of the following requirements:
- a. It is designed to be towed by a motor vehicle.
  - b. It is assigned a 17-digit vehicle identification number by the National Highway Transportation Safety Association.
  - c. It is sold to a person who purchases a motor vehicle in this State that is to be registered in another state and who uses the purchased motor vehicle to tow the wood chipper to the state in which the purchased motor vehicle is to be registered.

...."

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

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

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

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

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

**SECTION 7.2.** Any additional costs needed for the implementation of the provisions of the DNA Database Act of 2010 as enacted by Senate Bill 1383 or House Bill 1403, 2010 Regular Session of the 2009 General Assembly, that are not specifically provided for by this Part shall be provided by the Department of Justice from other funds appropriated to the Department. The Department of Justice shall pursue and apply for funds to supplement any amounts needed to implement the provisions of the DNA Database Act of 2010 from grants, the federal government, or any other available sources.

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

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

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

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

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

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

## **PART IX: EFFECTIVE DATE**

law. **SECTION 9.** Except as otherwise provided, this act is effective when it becomes  
In the General Assembly read three times and ratified this the 10<sup>th</sup> day of July, 2010.

s/ Walter H. Dalton  
President of the Senate

s/ Joe Hackney  
Speaker of the House of Representatives

s/ Beverly E. Perdue  
Governor

Approved 2:41 p.m. this 22<sup>nd</sup> day of July, 2010