

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1973
Committee Substitute Favorable 6/10/10
Committee Substitute #2 Favorable 6/16/10
Fourth Edition Engrossed 6/21/10
Senate Finance Committee Substitute Adopted 7/1/10
Sixth Edition Engrossed 7/7/10

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 FOR THE FORMATION OF A LIMITED LIABILITY COMPANY AS A LOW-PROFIT LIMITED LIABILITY COMPANY; TO CREATE THE UWHARRIE REGIONAL RESOURCES COMMISSION; TO PROVIDE FUNDING FOR THE DNA DATABASE AND DATABANK; TO CLARIFY THE APPLICATION OF THE ENVIRONMENTAL POLICY ACT TO CERTAIN ECONOMIC DEVELOPMENT INCENTIVE PAYMENTS; AND TO INCREASE THE PERIOD OF TIME FOR WHICH THE SECRETARY OF REVENUE MAY ALLOW A CORPORATION TO USE AN ALTERNATIVE APPORTIONMENT FORMULA.

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 – This Article is repealed effective for business activities that occur on or after January 1, ~~2011~~-2013."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



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

2 "(9a) Environmental disqualifying event. – Any of the following occurrences:

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

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

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

48 ...

49 (i) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the taxpayer
 50 was not eligible for the credit for the calendar year in which the taxpayer engaged in the
 51 activity for which the credit was claimed. A taxpayer forfeits a credit previously allowed under

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

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

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

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

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

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

37 "**§ 105-129.88. Credit for investing in business property.**

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

Area Development Tier	Applicable Percentage
Tier One	7%
Tier Two	5%

1 Tier Three 3.5%2%

2 ...

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

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

22"

23 **SECTION 1.8.** Sections 1.3 and 1.4 of this Part are effective for credits claimed for
 24 taxable years beginning on or after January 1, 2007. Sections 1.5 and 1.6 of this Part are
 25 effective when they become law and apply to all agreements in effect on or entered into on or
 26 after that date. The remainder of this Part becomes effective January 1, 2011, and applies to
 27 taxable years beginning on or after that date.

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

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

32 **"§ 105-130.47. Credit for qualifying expenses of a production company.**

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

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

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

16 (b) Credit. – A taxpayer that is a production company and has qualifying expenses of at
17 least two hundred fifty thousand dollars (\$250,000) with respect to a production is allowed a
18 credit against the taxes imposed by this Part equal to ~~fifteen percent (15%)~~ twenty-five percent
19 (25%) of the production company's qualifying expenses. For the purposes of this section, in the
20 case of an episodic television series, an entire season of episodes is one production. The credit
21 is computed based on all of the taxpayer's qualifying expenses incurred with respect to the
22 production, not just the qualifying expenses incurred during the taxable year.

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

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

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

47 (e) Credit Refundable. – If a credit allowed by this section exceeds the amount of tax
48 imposed by this Part for the taxable year reduced by the sum of all credits allowable, the
49 Secretary must refund the excess to the taxpayer. The refundable excess is governed by the
50 provisions governing a refund of an overpayment by the taxpayer of the tax imposed in this

1 Part. In computing the amount of tax against which multiple credits are allowed, nonrefundable
2 credits are subtracted before refundable credits.

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

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

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

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

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

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

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

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

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

39 **"§ 105-151.29. Credit for qualifying expenses of a production company.**

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

- 41 (1) Highly compensated individual. – An individual who directly or indirectly
42 receives compensation in excess of one million dollars (\$1,000,000) for
43 personal services with respect to a single production. An individual receives
44 compensation indirectly when a production company pays a personal service
45 company or an employee leasing company that pays the individual.
- 46 (2) Live sporting event. – A scheduled sporting competition, game, or race that
47 is not originated by a production company, but originated solely by an
48 amateur, collegiate, or professional organization, institution, or association
49 for live or tape-delayed television or satellite broadcast. A live sporting
50 event does not include commercial advertising, an episodic television series,
51 a television pilot, a music video, a motion picture, or a documentary

1 production in which sporting events are presented through archived
2 historical footage or similar footage taken at least 30 days before it is used.

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

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

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

12 b. Compensation and wages on which withholding payments are
13 remitted to the Department of Revenue under Article 4A of this
14 Chapter.

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

18 d. Employee fringe contributions, including health, pension, and
19 welfare contributions.

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

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

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

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

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

49 (d) Return. – A taxpayer may claim a credit allowed by this section on a return filed for
50 the taxable year in which the production activities are completed. The return must state the
51 name of the production, a description of the production, and a detailed accounting of the

1 qualifying expenses with respect to which a credit is claimed. The qualifying expenses are
2 subject to audit by the Secretary before the credit is allowed.

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

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

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

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

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

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

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

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

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

44 **SECTION 2.3.** G.S. 105-187.51 is amended by adding a new subsection to read:
45 "**§ 105-187.51. Tax imposed on mill machinery.**

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

- 47 (1) A manufacturing industry or plant that purchases mill machinery or mill
48 machinery parts or accessories for storage, use, or consumption in this State.
49 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.

(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 reads as rewritten:

"§ 105-129.54. Reports.

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

(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. The credit allowed under G.S. 105-129.56 must be itemized by categories of university development, application development, and other development.

(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

1 expenses is determined under subsection (c) of this section. The expenses to which the credit
2 applies are as follows:

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

5 (2) Employee fringe contributions on compensation and wages included under
6 subdivision (1) of this subsection, including health, pension, and welfare
7 contributions.

8 (3) Amounts paid to a research university for services performed in this State.

9 (c) Percentage. – The percentage of the credit allowed under this section is the
10 percentage set under this subsection. Only one credit is allowed under this section with respect
11 to the same expenses. If more than one subdivision of this subsection applies to the same
12 expenses, then the credit is equal to the higher percentage, not both percentages combined. The
13 applicable percentage is as follows:

14 (1) Higher ed collaboration. – For allowable expenses paid to a community
15 college, as defined in G.S. 115D-2, that offers an associate in applied science
16 degree in simulation and game development, or to a research university, the
17 percentage is twenty percent (20%).

18 (2) Training and education. – For allowable expenses incurred to develop
19 interactive digital media for any of the following applications, the
20 percentage is fifteen percent (15%):

21 a. Skill training to enable the user to retain or acquire a job in a specific
22 industry.

23 b. A military training or simulation application for use by the United

24 c. A medical training or simulation application.

25 d. An education application for use by a public or private primary
26 school.

27 (3) Other. – For allowable expenses not covered in another subdivision of this
28 subsection, the percentage is ten percent (10%).

29 (d) Limitations. – The amount of credit allowed under this section may not exceed
30 seven million five hundred thousand dollars (\$7,500,000). The credit allowed by this section
31 does not apply to interactive digital media that meets any of the business purposes or subject
32 matter restrictions in this subsection:

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

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

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

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

39 (5) It is political advertising.

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

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

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

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

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

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

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

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

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

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

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

11 **SECTION 4.3.** This Part is effective when it becomes law.
12

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

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

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

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

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

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

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

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

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

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

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

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

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

1 installation, certification, or distribution of green building materials; energy
2 audits; and marketing and sales of green building technology in North
3 Carolina, including grants to enhance workforce development for green
4 building processes.

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

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

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

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

18 **SECTION 5.4.** G.S. 105-129.16A(c)(1) reads as rewritten:

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

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

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

29 **"§ 105-129.55. Credit for North Carolina research and development.**

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

- 39 (1) Small business. – If the taxpayer was a small business as of the last day of
40 the taxable year, the applicable percentage is three and one-quarter percent
41 (3.25%).

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

- 45 (2a) University research. – For North Carolina university research expenses, the
46 applicable percentage is twenty percent (20%).

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

- 50 (3) Other research. – For expenses not covered under another subdivision (1) ~~or~~
51 (2) of this ~~subsection~~-section, the percentages provided in the table below

1 apply to the taxpayer's qualified North Carolina research expenses during the
2 taxable year at the following levels:

3 Expenses Over	Up To	Rate
4 -0-	\$50 million	1.25%
5 \$50 million	\$200 million	2.25%
6 \$200 million	-	3.25%

7 ~~(b) North Carolina University Research Expenses. — A taxpayer that has North Carolina~~
8 ~~university research expenses for the taxable year is allowed a credit equal to twenty percent~~
9 ~~(20%) of the expenses."~~

10 **SECTION 5.6.** Sections 5.1, 5.4, and 5.5 of this Part are effective for taxable years
11 beginning on or after January 1, 2011. The remainder of this Part is effective when it becomes
12 law. Sections 5.2 and 5.3 of this Part apply to grant applications submitted on or after July 1,
13 2010.

14 **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
17 "**§ 105-164.13. Retail sales and use tax.**

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

21 ...

22 (4g) A wood chipper that meets all of the following requirements:

- 23 a. It is designed to be towed by a motor vehicle.
- 24 b. It is assigned a 17-digit vehicle identification number by the National
25 Highway Transportation Safety Association.
- 26 c. It is sold to a person who purchases a motor vehicle in this State that
27 is to be registered in another state and who uses the purchased motor
28 vehicle to tow the wood chipper to the state in which the purchased
29 motor vehicle is to be registered.

30"

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

33 **PART VII: LOW-PROFIT LIMITED LIABILITY COMPANY**

34 **SECTION 7.1.** G.S. 57C-2-01 is amended by adding a new subsection to read:

35 "(d) L3C. – Formation and operation of a limited liability company as a low-profit
36 limited liability company is a lawful purpose. A low-profit limited liability company is a
37 limited liability company whose articles of organization state that the company is formed for
38 both a business purpose and a charitable purpose that requires operation of the company in
39 accordance with the requirements of this subsection. A company that operates in accordance
40 with these requirements is considered a for-profit entity and not a charitable entity for all tax
41 purposes. A company's failure to operate in accordance with these requirements does not affect
42 its status as a limited liability company. The charitable purpose requirements are as follows:

- 43 (1) To accomplish one or more charitable or educational purposes within the
44 meaning of section 170(c)(2)(B) of the Code, as defined in G.S. 105-228.90.
- 45 (2) To operate so that no significant purpose of the company is the production of
46 income or the appreciation of property. The fact that a company produces
47 significant income or capital appreciation is not, in the absence of other
48

factors, conclusive evidence of a significant purpose to produce income or accumulate capital.

- (3) To operate so that no purpose of the company is to accomplish one or more political or legislative purposes within the meaning of section 170(c)(2)(D) of the Code, as defined in G.S. 105-228.90."

SECTION 7.2. G.S. 57C-2-21 reads as rewritten:

"§ 57C-2-21. Articles of organization.

(a) The articles of organization must set forth ~~forth~~ all of the following:

- (1) A name for the limited liability company that satisfies the provisions of G.S. 55D-20 and ~~G.S. 55D-21~~; G.S. 55D-21.
- (2) If the limited liability company is to dissolve by a specific date, the latest date on which the limited liability company is to dissolve. If no date for dissolution is specified, there shall be no limit on the duration of the limited liability ~~company~~; company.
- (3) The name and address of each person executing the articles of organization and whether the person is executing the articles of organization in the capacity of a member or an ~~organizer~~; organizer.
- (4) The street address, and the mailing address if different from the street address, of the limited liability company's initial registered office, the county in which the initial registered office is located, and the name of the limited liability company's initial registered agent at that ~~address~~; address.
- (4a) The street address, and the mailing address if different from the street address, of the limited liability company's principal office, if any, and the county in which the principal office, if any, is ~~located~~; and located.
- (5) Unless all of the members by virtue of their status as members shall be managers of the limited liability company, a statement that, except as provided in G.S. 57C-3-20(a), the members shall not be managers by virtue of their status as members.
- (6) If the limited liability company is formed as a low-profit limited liability company, a statement that operation of the company must meet the charitable purpose requirements of G.S. 57C-2-01(d).

(b) The articles of organization may set forth any other provision, not inconsistent with law, including any other matter that under this Chapter is permitted to be set forth in an operating agreement.

(c) The articles of organization need not set forth any of the powers enumerated in this Chapter."

SECTION 7.3. G.S. 55D-20(a) is amended by adding the following subdivision to read:

- "(6) The name of a low-profit limited liability company must contain the words "low-profit limited liability company" or the abbreviation "L3C"."

SECTION 7.4. This Part is effective when it becomes law.

PART VIII: CREATE THE UWHARRIE REGIONAL RESOURCES COMMISSION AS A PERMANENT BODY CORPORATE OF THE STATE TO FOSTER ECONOMIC DEVELOPMENT AND PROTECT AND ENHANCE THE NATURAL RESOURCES OF THAT REGION

SECTION 8. The General Statutes are amended by adding a new Chapter to read:

"Chapter 153C.

"Uwharrie Regional Resources Act.

"§ 153C-1. Short title; findings; purpose.

1 (a) Short Title. – This Chapter shall be known and may be cited as the "Uwharrie
2 Regional Resources Act."

3 (b) Findings. – The General Assembly finds that:

4 (1) The beauty and abundant natural resources of the Uwharrie region of North
5 Carolina are prized by all North Carolinians. Millions of tourists travel to the
6 Uwharrie region of North Carolina to see and experience the natural beauty
7 of the region, including: the vistas near Uwharrie National Forest and
8 Morrow Mountain State Park; scenic lakes and rivers including Badin, High
9 Rock, and Tuckertown Lakes, and the Uwharrie, Yadkin, and Pee Dee
10 Rivers; as well as nearby attractions including the North Carolina Zoological
11 Park and the Seagrove area potteries. This tourism is vitally important to this
12 region of the State.

13 (2) The federal government recognized the natural abundance and cultural
14 heritage of this region of North Carolina by purchasing tens of thousands of
15 acres of land and designating it the Uwharrie Reservation during the Great
16 Depression. In 1961, President John F. Kennedy proclaimed these lands the
17 Uwharrie National Forest.

18 (3) The same beauty and natural abundance that is valued by North Carolina
19 residents, tourists, and the federal government is being adversely affected by
20 natural asset uses that are negatively impacting the value and public's
21 enjoyment of the important regional assets of the region.

22 (4) The region is subject to profound economic challenges and pressures due to
23 a loss of manufacturing and industrial activities in recent years. Local
24 governments face challenges as they adapt to new and difficult changes to
25 the landscape.

26 (c) Purpose. – It is the purpose of this Chapter to encourage quality growth and
27 development while preserving the natural resources of the Uwharrie region of North Carolina.

28 **"§ 153C-2. Definitions.**

29 The following definitions apply in this Article:

30 (1) Commission. – The Uwharrie Resources Commission created by this
31 Chapter.

32 (2) Important regional resources. – The natural and cultural resources of the
33 Uwharrie region of North Carolina, including, but not limited to: State and
34 federal public lands; forestland; vistas; streams, rivers, and lakes; wildlife
35 habitat; and economic, recreational, historical and archeological resources.

36 (3) Department. – The Department of Commerce.

37 (4) Uwharrie region of North Carolina. – The area encompassed by the counties
38 of Davidson, Davie, Montgomery, Rowan, Randolph, and Stanly in the
39 State.

40 **"§ 153C-3. Uwharrie Regional Resources Commission.**

41 (a) Creation. – The Uwharrie Regional Resources Commission is hereby established.
42 The Commission is a permanent body corporate of the State composed of members from the
43 Uwharrie region of North Carolina. The Commission shall be located administratively in the
44 Department of Commerce but shall exercise its statutory powers and duties independently of
45 the Department of Commerce. The Commission shall meet in the Uwharrie region of North
46 Carolina. Funds appropriated for the Commission by the General Assembly shall be disbursed
47 directly to the Commission at the beginning of each fiscal year.

48 (b) Purpose. – The purposes and functions of the Uwharrie Regional Resources
49 Commission are to do all of the following:

50 (1) Identify and evaluate issues affecting important resources of the region and
51 recommend policies and programs to address those issues.

- 1 (2) Coordinate with existing local and regional efforts to address threats to
2 important regional resources and work undertaken by councils of
3 government and the jurisdictions they serve in the Uwharrie region of North
4 Carolina.
- 5 (3) Provide a forum for discussion of issues affecting important regional
6 resources.
- 7 (4) Promote communication, coordination, and education among stakeholders
8 within the Uwharrie region of North Carolina.
- 9 (5) Collect research and information from North Carolina and other states and
10 jurisdictions regarding State and regional approaches to coordinating (i)
11 provision of infrastructure for the protection of important regional resources
12 and (ii) efforts to encourage quality growth to protect such important
13 regional resources.
- 14 (6) Monitor federal activities involving important regional resources.
- 15 (7) Determine whether new strategies or tools would be helpful to address
16 pressures on important regional resources and whether and how such
17 strategies or tools should be implemented to protect and enhance such
18 resources to maximize their value for the benefit of the citizens of the
19 Uwharrie region as well as the State.
- 20 (8) Provide guidance and make recommendations to local, State, and federal
21 legislative and administrative bodies and to others as it considers necessary
22 and appropriate for the use, stewardship, and enhancement of important
23 regional resources.
- 24 (c) Authority. – To achieve its purposes, the Commission shall have all of the following
25 powers and duties:
- 26 (1) To develop rules and procedures for the conduct of its business or as may be
27 necessary to perform its duties and carry out its objectives, including, but not
28 limited to, calling meetings and establishing voting procedures. Rules and
29 procedures developed pursuant to this subsection shall be effective upon an
30 affirmative vote by a majority of the Commission members.
- 31 (2) To pursue efforts directed at the equitable distribution of water for public
32 purposes.
- 33 (3) To seek enforcement of environmental laws and contribution to
34 environmental cleanup costs, consistent with its obligations under this
35 Article.
- 36 (4) To establish standing and ad hoc committees. The Commission shall
37 determine the purpose of each standing or ad hoc committee.
- 38 (5) To seek, apply for, accept, and expend gifts, grants, donations, services, and
39 other aid from public or private sources. The Commission may accept or
40 expend funds only after an affirmative vote by a majority of the members of
41 the Commission.
- 42 (6) To exercise the powers of a body corporate, including the power to sue and
43 be sued, own or lease property, and adopt and use a common seal and alter
44 the same.
- 45 (7) To enter into contracts and execute all instruments necessary or appropriate
46 to achieve the purposes of the Commission.
- 47 (8) To designate a fiscal agent.
- 48 (9) To perform any lawful acts necessary or appropriate to achieve the purposes
49 of the Commission.
- 50 (d) Membership. – The Commission shall consist of 10 members as follows:

- 1 (1) One representative from the public at large who is a resident of the Uwharrie
2 region of North Carolina appointed by the President Pro Tempore of the
3 Senate.
- 4 (2) One representative from the public at large who is a resident of the Uwharrie
5 region of North Carolina appointed by the Speaker of the House of
6 Representatives.
- 7 (3) Four representatives from the public at large who are residents of the
8 Uwharrie region of North Carolina to be appointed by the Governor,
9 including:
- 10 a. Two who shall at the time of appointment be actively connected with
11 or have experience in local government within the Uwharrie region
12 of North Carolina.
- 13 b. One who shall at the time of appointment have experience in tourism
14 or tourism development in the Uwharrie region of North Carolina.
- 15 c. One who shall have experience in economic development in the
16 Uwharrie region of North Carolina.
- 17 (4) Two members to represent each of the following regional councils of
18 government as appointed by those councils: the Centralina Council of
19 Governments and the Piedmont Triad Council of Governments.
- 20 (5) The Secretary of Commerce or the Secretary's designee.
- 21 (6) The Secretary of Environment and Natural Resources or the Secretary's
22 designee.

23 The members of the Commission shall elect a chair, vice-chair, and any other officers they
24 consider necessary and shall determine the length of the term of office, not to exceed two years,
25 of each officer. A majority of the Commission shall constitute a quorum. Each member
26 appointed to the Commission shall be appointed to serve a four-year term. Any vacancy on the
27 Commission shall be filled by the original appointing authority for the remainder of the
28 unexpired term. Initial terms commence September 1, 2010.

29 (e) Salary; Expenses. – Members of the Commission shall receive no salary for their
30 service on the Commission but may receive per diem, subsistence, and travel allowances in
31 accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. All expenses shall be paid from
32 funds available to the Commission through the Unwharrie Regional Resources Fund, but no
33 expenses shall be paid if the Unwharrie Regional Resources Fund lacks the necessary funds.

34 (f) Staff Support. – The Department of Commerce shall provide staff support and
35 facilities to the Commission within the existing programs of the agency. Additional staff may
36 be hired or contracted by the Commission through funds raised by or provided to it. The duties
37 and compensation of any additional staff shall be determined and fixed by the Commission
38 within available resources.

39 (g) State Agency Cooperation. – All agencies of the State of North Carolina shall
40 cooperate with the Commission and, upon request, shall assist the Commission in fulfilling its
41 responsibilities. The Secretary of Commerce or the Secretary's designee shall serve as the
42 liaison between the Secretary's agency and the Commission. The Commission may obtain
43 information and data upon request from all officers, agents, agencies, and departments of the
44 State of North Carolina or of local governments while in discharge of its duties.

45 (h) The role of the Commission is advisory in nature and in no way shall the
46 Commission be construed to have regulatory authority. No action of the Commission
47 supercedes any decision of any local planning board.

48 **"§ 153C-4. Uwharrie Regional Resources Fund.**

49 (a) Creation. – The Uwharrie Regional Resources Fund is created as a special fund
50 within the Department. The Fund consists of moneys credited to the Fund from appropriations
51 and any gifts, grants, donations, or other aid from public or private sources.

1 (b) Use. – Moneys in the Fund shall be used by the Commission to implement the
2 provisions of this Chapter.

3 4 **PART IX: FUNDING FOR THE DNA DATABASE AND DATABANK**

5
6 **SECTION 9.1.** If Senate Bill 1383 or House Bill 1403, 2010 Regular Session,
7 2009 General Assembly, become law, then G.S. 7A-304(a) reads as rewritten:

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

14 ...

15 (9) For the support and services of the State Bureau of Investigation DNA
16 Database and DNA Databank, the sum of three dollars (\$3.00), to be
17 remitted to the Department of Justice. Notwithstanding the provisions of
18 subsection (e) of this section, this cost shall not apply to infractions."

19 **SECTION 9.2.** This Part becomes effective October 1, 2010, and applies to court
20 costs imposed or collected on or after that date, except that in misdemeanor cases disposed of
21 on or after that date by written appearance, waiver of trial or hearing, and plea of guilt or
22 admission of responsibility pursuant to G.S. 7A-180(4) or G.S. 7A-273(2) in which the citation
23 or other criminal process was issued before that date, the cost shall be the lesser of the cost
24 specified in G.S. 7A-304(a), as amended by this act, or the cost specified in the notice portion
25 of the defendant's or respondent's copy of the citation or other criminal process, if any costs are
26 specified in that notice.

27 28 **PART X. CLARIFY THE APPLICABILITY OF THE STATE ENVIRONMENTAL** 29 **POLICY ACT TO CERTAIN ECONOMIC DEVELOPMENT INCENTIVE** 30 **PAYMENTS.**

31
32 **SECTION 10.1.** G.S. 113A-12 reads as rewritten:

33 **"§ 113A-12. Environmental document not required in certain cases.**

34 No environmental document shall be required in connection with:

- 35 (1) The construction, maintenance, or removal of an electric power line, water
36 line, sewage line, stormwater drainage line, telephone line, telegraph line,
37 cable television line, data transmission line, or natural gas line within or
38 across the right-of-way of any street or highway.
- 39 (2) An action approved under a general permit issued under G.S. 113A-118.1,
40 143-215.1(b)(3), or 143-215.108(c)(8).
- 41 (3) A lease or easement granted by a State agency for:
42 a. The use of an existing building or facility.
43 b. Placement of a wastewater line on or under submerged lands
44 pursuant to a permit granted under G.S. 143-215.1.
45 c. A shellfish cultivation lease granted under G.S. 113-202.
- 46 (4) The construction of a driveway connection to a public roadway."
- 47 (5) A project for which public monies are expended if the expenditure is solely
48 for the payment of incentives pursuant to an agreement that makes the
49 incentive payments contingent on prior completion of the project or activity,
50 or completion on a specified timetable, and a specified level of job creation
51 or new capital investment."

1 **SECTION 10.2.** This Part becomes effective June 1, 2010, but does not apply to
2 any pending litigation or orders issued by a court of competent jurisdiction prior to that date.
3

4 **PART XI. ALTERNATIVE APPORTIONMENT FORMULA CHANGE**

5
6 **SECTION 11.1** G.S. 105-130.4(t1) reads as rewritten:

7 "(t1) Alternative Apportionment Method. – A corporation that believes the statutory
8 apportionment method that otherwise applies to it under this section subjects a greater portion
9 of its income to tax than is attributable to its business in this State may make a written request
10 to the Secretary for permission to use an alternative method. The request must set out the
11 reasons for the corporation's belief and propose an alternative method.

12 The statutory apportionment method that otherwise applies to a corporation under this
13 section is presumed to be the best method of determining the portion of the corporation's
14 income that is attributable to its business in this State. A corporation has the burden of
15 establishing by clear, cogent, and convincing proof that the proposed alternative method is a
16 better method of determining the amount of the corporation's income attributable to the
17 corporation's business in this State.

18 The Secretary must issue a written decision on a corporation's request for an alternative
19 apportionment method. If the decision grants the request, it must describe the alternative
20 method the corporation is authorized to use and state the tax years to which the alternative
21 method applies. A decision may apply to no more than three tax ~~years.~~years, unless the
22 provisions of subsection (t2) of this section apply. A corporation may renew a request to use an
23 alternative apportionment method by following the procedure in this subsection. A decision of
24 the Secretary on a request for an alternative apportionment method is final and is not subject to
25 administrative or judicial review. A corporation authorized to use an alternative method may
26 apportion its income in accordance with the alternative method or the statutory method. A
27 corporation may not use an alternative apportionment method except upon written order of the
28 Secretary, and any return in which any alternative apportionment method, other than the
29 method prescribed by statute, is used without permission of the Secretary is not a lawful
30 return."

31 **SECTION 11.2.** G.S. 105-130.4 is amended by adding a new subsection to read:

32 (t2) Alternative Apportionment for Certain Corporations. – A corporation that invests or
33 is expected to invest at least five hundred million dollars (\$500,000,000) in private funds to
34 construct a facility in a development tier one area within five years after the time construction
35 begins may make a written request to the Secretary for permission to use an alternative method
36 of apportionment if it believes the statutory apportionment method that otherwise applies to it
37 under this section subjects a greater portion of its income to tax than is attributable to its
38 business in this State. The Secretary of Commerce must certify in writing that the corporation
39 meets the conditions of this subdivision and the certification must be included with the
40 corporation's request to the Secretary. All of the provisions of subsection (t1) of this section
41 apply to a request for an alternative apportionment method under this subsection except that a
42 decision may apply to no more than eight tax years."

43 **SECTION 11.3.** This Part is effective when it becomes law, and applies to requests
44 for alternative apportionment formulas filed on or after that date.
45

46 **PART XII: EFFECTIVE DATE**

47
48 **SECTION 12.** Except as otherwise provided, this act is effective when it becomes
49 law.