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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 ESTABLISH THE YADKIN RIVER TRUST;
AND TO PROVIDE FUNDING FOR THE DNA DATABASE AND DATABANK.

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 – This Article is repealed effective for business activities that occur on or after January 1, ~~2011~~-2013."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



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

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

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

41 ...

42 (i) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the taxpayer
 43 was not eligible for the credit for the calendar year in which the taxpayer engaged in the
 44 activity for which the credit was claimed. A taxpayer forfeits a credit previously allowed under
 45 this Article if a final determination unfavorable to the taxpayer with respect to an
 46 environmental disqualifying event is made that is applicable to the year in which the activity
 47 occurred for which the credit was claimed. In addition, a taxpayer forfeits a credit for
 48 investment in real property under G.S. 105-129.89 if the taxpayer fails to timely create the
 49 number of required new jobs or to timely make the required level of investment under
 50 G.S. 105-129.89(b). A taxpayer that forfeits a credit under this Article is liable for all past taxes
 51 avoided as a result of the credit plus interest at the rate established under G.S. 105-241.21,

1 computed from the date the taxes would have been due if the credit had not been allowed. The
 2 past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails
 3 to pay the past taxes and interest by the due date is subject to the penalties provided in
 4 G.S. 105-236."

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

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

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

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

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

30 **"§ 105-129.88. Credit for investing in business property.**

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

Area Development Tier	Applicable Percentage
Tier One	7%
Tier Two	5% 4%
Tier Three	3.5% 2%

46 ...
 47 (c) Threshold. – The applicable threshold is the appropriate amount set out in the
 48 following table based on the development tier where the eligible business property is placed in
 49 service during the taxable year. If the taxpayer places business property in service in an urban
 50 progress zone or an agrarian growth zone, the applicable threshold is the one for a development
 51 tier one area. Business property placed in service in an urban progress zone or an agrarian

1 growth zone is not aggregated with business property placed in service at any other eligible
 2 establishments regardless of county. If the taxpayer places eligible business property in service
 3 at more than one establishment in a county during the taxable year, the threshold applies to the
 4 aggregate amount of eligible business property placed in service during the taxable year at all
 5 establishments in the county. If the taxpayer places eligible business property in service at
 6 establishments in different counties, the threshold applies separately to the aggregate amount of
 7 eligible business property placed in service in each county. If the taxpayer places eligible
 8 business property in service at an establishment over the course of a two-year period, the
 9 applicable threshold for the second taxable year is reduced by the eligible investment amount
 10 for the previous taxable year.

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

11
12
13
14
15"

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

21
22 **PART II: EXPAND TAX CREDITS FOR PRODUCTION COMPANIES**

23
24 **SECTION 2.1.** G.S. 105-130.47 reads as rewritten:

25 **"§ 105-130.47. Credit for qualifying expenses of a production company.**

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

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

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

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

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

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

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

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

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

49 (f) Limitations. – The amount of credit allowed under this section with respect to a
50 production that is a feature film may not exceed ~~seven~~ twenty million five hundred thousand

1 dollars ~~(\$7,500,000)~~, ~~(\$20,000,000)~~. No credit is allowed under this section for any production
2 that satisfies one of the following conditions:

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

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

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

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

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

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

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

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

35 "**§ 105-151.29. Credit for qualifying expenses of a production company.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 "**§ 105-187.51. Tax imposed on mill machinery.**

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

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

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

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

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

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

16 "Article 3F.

17 ~~Research and Technology Development."~~

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

19 **"§ 105-129.50. Definitions.**

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

- 22 (1) ~~through (3):~~ Reserved.
- 23 (2) Full-time job. – Defined in G.S. 105-129.81.
- 24 (3) Reserved.
- 25 (4) North Carolina university research expenses. – Any amount the taxpayer
26 paid or incurred to a research university for qualified research performed in
27 this State or basic research performed in this State.
- 28 (5) Period of measurement. – Defined in the Small Business Size Regulations of
29 the federal Small Business Administration.
- 30 (6) Qualified North Carolina research expenses. – Qualified research expenses,
31 other than North Carolina university research expenses, for research
32 performed in this State.
- 33 (7) Receipts. – Defined in the Small Business Size Regulations of the federal
34 Small Business Administration.
- 35 (8) Related person. – Defined in G.S. 105-163.010.
- 36 (9) Research university. – An institution of higher education that meets one or
37 both of the following conditions:
- 38 a. It is classified as one of the following in the most recent edition of
39 "A Classification of Institutions of Higher Education", the official
40 report of The Carnegie Foundation for the Advancement of
41 Teaching:
- 42 1. Doctoral/Research Universities, Extensive or Intensive.
- 43 2. Masters Colleges and Universities, I or II.
- 44 3. Baccalaureate Colleges, Liberal Arts or General.
- 45 b. It is a constituent institution of The University of North Carolina.
- 46 (10) Small business. – A business whose annual receipts, combined with the
47 annual receipts of all related persons, for the applicable period of
48 measurement did not exceed one million dollars (\$1,000,000)."

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

1 **"§ 105-129.51. ~~Administration; Taxpayer standards and sunset.~~**

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

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

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

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

10 **"§ 105-129.52. Tax election; cap.**

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

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

22 **SECTION 3.5.** G.S. 105-129.54 reads as rewritten:

23 **"§ 105-129.54. Reports.**

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

26 (1) The number of taxpayers that took a credit allowed in this ~~Article,~~Article.
27 The credit allowed under G.S. 105-129.55 must be itemized by the
28 categories of small business, low-tier, other, and university research. The
29 credit allowed under G.S. 105-129.56 must be itemized by categories of
30 university development, application development, and other development.

31 (2) The amount of each credit taken in each category.

32 (3) The total cost to the General Fund of the credits taken."

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

35 **"§ 105-129.56. Interactive digital media.**

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

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

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

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

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

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

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

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

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

10 (1) University. – For allowable expenses paid to a research university, the
11 percentage is twenty percent (20%).

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

15 a. Skill training to enable the user to retain or acquire a job in a specific
16 industry.

17 b. A military training or simulation application for use by the United
18 States armed services.

19 c. A medical training or simulation application.

20 d. An education application for use by a public or private primary
21 school.

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

24 (d) Limitations. – The credit allowed by this section does not apply to interactive digital
25 media that meets any of the business purposes or subject matter restrictions in this subsection:

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

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

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

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

32 (5) It is political advertising.

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

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

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

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

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

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

45
46 **PART IV: EXTEND SUNSET FOR TAX CREDIT FOR RECYCLING OYSTER**
47 **SHELLS**

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

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

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

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

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

5
6 **PART V: CREATE ECONOMIC DEVELOPMENT INCENTIVES FOR ECO-PARKS**

7
8 **SECTION 5.1.** G.S. 143B-437.08 is amended by adding a new subsection to read:

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

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

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

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

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

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

22 "~~§ 143B-437.4. NC Green Business Fund established as a special revenue fund.~~ and grant
23 program.

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

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

36 (1) To encourage the development of the biofuels industry in the State. The
37 Department of Commerce may make grants available to maximize
38 development, production, distribution, retail infrastructure, and consumer
39 purchase of biofuels in North Carolina, including grants to enhance biofuels
40 workforce development.

41 (2) To encourage the development of the green building industry in the State.
42 The Department of Commerce may make grants available to assist in the
43 development and growth of a market for environmentally conscious and
44 energy efficient green building processes. Grants may support the
45 installation, certification, or distribution of green building materials; energy
46 audits; and marketing and sales of green building technology in North
47 Carolina, including grants to enhance workforce development for green
48 building processes.

49 (3) To attract and leverage private-sector investments and entrepreneurial
50 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)(1) reads as rewritten:

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

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

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:

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

1 (b) ~~North Carolina University Research Expenses. — A taxpayer that has North Carolina~~
2 ~~university research expenses for the taxable year is allowed a credit equal to twenty percent~~
3 ~~(20%) of the expenses."~~

4 **SECTION 5.6.** Sections 5.1, 5.4, and 5.5 of this Part are effective for taxable years
5 beginning on or after January 1, 2011. The remainder of this Part is effective when it becomes
6 law. Sections 5.2 and 5.3 of this Part apply to grant applications submitted on or after July 1,
7 2010.

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

10
11 **SECTION 6.1.** G.S. 105-164.13 is amended by adding a new subdivision to read:
12 "**§ 105-164.13. Retail sales and use tax.**

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

16 ...

17 (4g) A wood chipper that meets all of the following requirements:

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

25"

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

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

30
31 **SECTION 7.1.** G.S. 57C-2-01 is amended by adding a new subsection to read:

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

- 40 (1) To accomplish one or more charitable or educational purposes within the
41 meaning of section 170(c)(2)(B) of the Code, as defined in G.S. 105-228.90.
42 (2) To operate so that no significant purpose of the company is the production of
43 income or the appreciation of property. The fact that a company produces
44 significant income or capital appreciation is not, in the absence of other
45 factors, conclusive evidence of a significant purpose to produce income or
46 accumulate capital.
47 (3) To operate so that no purpose of the company is to accomplish one or more
48 political or legislative purposes within the meaning of section 170(c)(2)(D)
49 of the Code, as defined in G.S. 105-228.90."

50 **SECTION 7.2.** G.S. 57C-2-21 reads as rewritten:
51 "**§ 57C-2-21. Articles of organization.**

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

2 (1) A name for the limited liability company that satisfies the provisions of
3 G.S. 55D-20 and ~~G.S. 55D-21~~;G.S. 55D-21.

4 (2) If the limited liability company is to dissolve by a specific date, the latest
5 date on which the limited liability company is to dissolve. If no date for
6 dissolution is specified, there shall be no limit on the duration of the limited
7 liability ~~company~~;company.

8 (3) The name and address of each person executing the articles of organization
9 and whether the person is executing the articles of organization in the
10 capacity of a member or an ~~organizer~~;organizer.

11 (4) The street address, and the mailing address if different from the street
12 address, of the limited liability company's initial registered office, the county
13 in which the initial registered office is located, and the name of the limited
14 liability company's initial registered agent at that ~~address~~;address.

15 (4a) The street address, and the mailing address if different from the street
16 address, of the limited liability company's principal office, if any, and the
17 county in which the principal office, if any, is ~~located~~;andlocated.

18 (5) Unless all of the members by virtue of their status as members shall be
19 managers of the limited liability company, a statement that, except as
20 provided in G.S. 57C-3-20(a), the members shall not be managers by virtue
21 of their status as members.

22 (6) If the limited liability company is formed as a low-profit limited liability
23 company, a statement that operation of the company must meet the
24 charitable purpose requirements of G.S. 57C-2-01(d).

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

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

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

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

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

35
36 **PART VIII: ESTABLISH THE YADKIN RIVER TRUST TO DEVELOP THE**
37 **RESOURCES OF THE YADKIN RIVER IN DAVIDSON, MONTGOMERY, ROWAN,**
38 **AND STANLY COUNTIES**

39
40 **SECTION 8.1.** Chapter 77 of the General Statutes is amended by adding a new
41 Article to read as follows:

42 "Article 10.

43 "Yadkin River Trust.

44 "**§ 77-140. Yadkin River Trust.**

45 There is established the Yadkin River Trust as a public agency and instrumentality of the
46 State to develop the Yadkin River in Davidson, Montgomery, Rowan, and Stanly Counties as
47 an instrumentality of intrastate, interstate, and foreign commerce and navigation, to ensure the
48 equitable distribution of water for public purposes, to investigate and address issues of
49 environmental damage in that area, and to fulfill the purpose and intent of Chapter 212 of the
50 1885 Session Laws..

51 "**§ 77-141. Board of Directors.**

1 (a) Appointment. – The Board of Directors of the Yadkin River Trust shall consist of
2 three directors, the Secretary of the Department of Commerce, one who shall be appointed by
3 the Speaker of the House of Representatives, and one who shall be appointed by the President
4 Pro Tempore of the Senate.

5 (b) Terms. – The term of office of directors of the Board is four years. A director may
6 be reappointed to one successive four-year term. A director in office continues to serve until the
7 director's successor is duly confirmed and qualified, but the holdover does not affect the
8 expiration date of the succeeding term.

9 (c) Chair. – The Governor shall convene the first meeting of the Board, at which time
10 the members of the Board shall elect a chair of the Board from their membership.

11 (d) Vacancies. – In case of death, incapacity, resignation, or vacancy for any other
12 reason in the office of any director prior to the expiration of the director's term of office, the
13 appropriate appointing authority shall appoint a replacement in the same manner as provided
14 for the original appointment to serve the remainder of the unexpired term.

15 (e) Organization of the Board. – The Board shall adopt bylaws with respect to calling
16 meetings, quorums, voting procedures, keeping records, and other organizational and
17 administrative matters as the Board may determine. A quorum consists of a majority of the
18 members of the Board. No vacancy in the membership of the Board impairs the right of a
19 quorum to exercise all rights and to perform all the duties of the Board and the Trust.

20 (f) Compensation of the Board. – The members of the Board shall receive no salary for
21 their services but shall be entitled to receive per diem and allowances in accordance with the
22 provisions of G.S. 138-5.

23 **"§ 77-142. Powers of the Trust.**

24 The Trust has all the powers necessary to execute the provisions of this Article, including
25 the following:

- 26 (1) To adopt, alter, or repeal its bylaws and adopt, amend, or repeal rules to
27 implement the provisions of this Article.
- 28 (2) To sue and be sued, to make contracts, to adopt and use a common seal, and
29 to alter the adopted seal as needed.
- 30 (3) To contract and enter into agreements with the State, local governments,
31 other authorities of North Carolina, and other states for the interchange of
32 business and to facilitate the business of the Trust.
- 33 (4) To rent, lease, purchase, acquire, own, hold, use, encumber, sell, transfer, or
34 dispose of any property, real, personal, or mixed, or any interest therein.
- 35 (5) To apply for, accept, and administer loans and grants of money from any
36 federal agency, from the State or its political subdivisions, or from any other
37 public or private sources available, to expend the money in accordance with
38 the requirements imposed by the lender or donor, and to give any evidences
39 of indebtedness that are required.
- 40 (6) To procure and maintain adequate insurance or otherwise provide for
41 adequate protection to indemnify the Trust and its officers, directors, agents,
42 employees, adjoining property owners, or the general public against loss or
43 liability resulting from any act or omission by or on behalf of the Trust.
- 44 (7) To develop the Yadkin River in Davidson, Montgomery, Rowan, and Stanly
45 Counties as an instrumentality of intrastate, interstate, and foreign commerce
46 and navigation.
- 47 (8) To pursue efforts directed at the equitable distribution of water for public
48 purposes.
- 49 (9) To seek enforcement of environmental laws and contribution to
50 environmental cleanup costs, consistent with its obligations under this
51 Article.

1 (10) To fulfill the purpose and intent of Chapter 212 of the 1885 Session Laws,
2 which set forth certain requirements to erect and maintain dams and other
3 obstructions in the Yadkin River.

4 **"§ 77-143 through § 77-160: Reserved for future codification purposes."**

5 **SECTION 8.2.** The Yadkin River Trust shall monitor the proceedings before the
6 Federal Energy Regulatory Commission concerning the license for the Yadkin Project No.
7 2197 and report to the Joint Legislative Commission on Governmental Operations, the Joint
8 Legislative Utility Review Committee, and the Environmental Review Commission on or
9 before January 15, 2011, on the status of the matter. Upon reporting, the Trust may also
10 provide an update on issues required to be studied pursuant to S.L. 2008-137, as deemed
11 appropriate.

12 **SECTION 8.3.** This Part is effective when it becomes law. If the Federal Energy
13 Regulatory Commission issues a new multiyear license to Alcoa Power Generating, Inc., for
14 the Yadkin Project No. 2197, the provisions of this Part shall expire upon issuance of that
15 license.

16

17 **PART IX: FUNDING FOR THE DNA DATABASE AND DATABANK**

18

19 **SECTION 9.1.** If Senate Bill 1383 or House Bill 1403, 2010 Regular Session,
20 2009 General Assembly, become law, then G.S. 7A-304(a) reads as rewritten:

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

27 ...

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

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

40

41 **PART X: EFFECTIVE DATE**

42

43 **SECTION 10.** Except as otherwise provided, this act is effective when it becomes
44 law.