

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1734
Committee Substitute Favorable 8/5/02

Short Title: NC Economic Stimulus and Job Creation Act.

(Public)

Sponsors:

Referred to:

June 17, 2002

A BILL TO BE ENTITLED

1 AN ACT TO RAISE THE INVESTMENT THRESHOLD FOR THE CREDIT FOR
2 INVESTING IN MACHINERY AND EQUIPMENT; TO ESTABLISH TIERED
3 RATES FOR THE CREDIT FOR INVESTING IN MACHINERY AND
4 EQUIPMENT; TO REQUIRE A TAXPAYER AND ITS RELATED ENTITIES TO
5 SATISFY ANY OUTSTANDING STATE TAX ASSESSMENTS BEFORE
6 RECEIVING A BILL LEE ACT CREDIT; TO MODIFY THE WAGE
7 STANDARD FOR THE CREDIT FOR WORKER TRAINING; TO MODIFY THE
8 WAGE STANDARD FOR ENTERPRISE TIER ONE AND TWO COUNTIES; TO
9 MODIFY THE WAGE STANDARD FOR TAXPAYERS WITH A TAX YEAR
10 OTHER THAN A CALENDAR YEAR; TO TREAT CERTAIN PARCELS OF
11 LAND PARTIALLY LOCATED IN A DEVELOPMENT ZONE AS IF THE
12 ENTIRE PARCEL WERE LOCATED WITHIN THE DEVELOPMENT ZONE;
13 TO ENACT A JOB DEVELOPMENT INVESTMENT GRANT PROGRAM TO
14 PROVIDE ECONOMIC STIMULUS, TO CREATE JOBS, AND TO AID IN THE
15 DEVELOPMENT OF BUSINESS AND INDUSTRIAL PROJECTS AND
16 EXPANSIONS IN NORTH CAROLINA; TO MODIFY THE INDUSTRIAL
17 DEVELOPMENT FUND TO ALLOW FOR EXPENDITURES RELATED TO
18 TELECOMMUNICATIONS AND BROADBAND LINES AND EQUIPMENT
19 AND TO ALLOW FOR EXPENDITURES FROM THE UTILITY ACCOUNT IN
20 ENTERPRISE TIER THREE AREAS; AND TO MAKE A TECHNICAL
21 CORRECTION REGARDING THE AUTHORITY OF A LOCAL
22 GOVERNMENT TO LEVY A PROPERTY TAX FOR ECONOMIC
23 DEVELOPMENT.
24

25 The General Assembly of North Carolina enacts:

26 **SECTION 1.** G.S. 105-129.9(a) and (c) read as rewritten:

27 "(a) General Credit. – If a taxpayer that has purchased or leased eligible
28 machinery and equipment places them in service in this State during the taxable year,
29 the taxpayer is allowed a credit equal to ~~seven percent (7%)~~ the applicable percentage of

1 the excess of the eligible investment amount over the applicable threshold. Machinery
 2 and equipment are eligible if they are capitalized by the taxpayer for tax purposes under
 3 the Code and not leased to another party. In addition, in the case of a large investment,
 4 machinery and equipment that are not capitalized by the taxpayer are eligible if the
 5 taxpayer leases them from another party. The credit may not be taken for the taxable
 6 year in which the machinery and equipment are placed in service but shall be taken in
 7 equal installments over the seven years following the taxable year in which they are
 8 placed in service. The applicable percentage is as follows:

<u>Area Enterprise Tier</u>	<u>Applicable Percentage</u>
<u>Tier One</u>	<u>7%</u>
<u>Tier Two</u>	<u>7%</u>
<u>Tier Three</u>	<u>6%</u>
<u>Tier Four</u>	<u>5%</u>
<u>Tier Five</u>	<u>4%</u>

15 ...

16 (c) Threshold. – The applicable threshold is the appropriate amount set out in the
 17 following table based on the enterprise tier where the eligible machinery and equipment
 18 are placed in service during the taxable year. If the taxpayer places eligible machinery
 19 and equipment in service at more than one establishment in an enterprise tier during the
 20 taxable year, the threshold applies separately to the eligible machinery and equipment
 21 placed in service at each establishment. If the taxpayer places eligible machinery and
 22 equipment in service at an establishment over the course of a two-year period, the
 23 applicable threshold for the second taxable year is reduced by the eligible investment
 24 amount for the previous taxable year.

Area Enterprise Tier	Threshold
Tier One	\$ -0-
Tier Two	100,000
Tier Three	200,000
Tier Four	500,000 1,000,000
Tier Five	1,000,000 2,000,000"

31 **SECTION 1.1.** G.S. 105-129.4 is amended by adding a new subsection to
 32 read:

33 "(b6) Final Assessments. – A taxpayer is not eligible for a credit allowed under this
 34 Article if, at the time the taxpayer claims an installment or carryforward of the credit,
 35 the taxpayer or a related entity of the taxpayer has received a notice of final assessment
 36 and that assessment has not been satisfied or otherwise resolved."

37 **SECTION 2.** G.S. 105-129.4(b) reads as rewritten:

38 "(b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs ~~or the~~
 39 ~~credit for worker training in an enterprise tier three, four, or five area if, for the calendar~~
 40 ~~year the jobs are created or the worker training is provided,~~ created, the average wage of
 41 the jobs for which the credit is claimed meets the wage standard and the average wage
 42 of all jobs at the location with respect to which the credit is claimed meets the wage
 43 standard. No credit is allowed for jobs not included in the wage calculation. A taxpayer
 44 is eligible for the credit for investing in machinery and equipment, the credit for

1 research and development, or the credit for investing in real property for a central office
2 or aircraft facility, or the credit for substantial investment in other property facility in a
3 tier three, four, or five area if, for the calendar year the taxpayer engages in the activity
4 that qualifies for the credit, the average wage of all jobs at the location with respect to
5 which the credit is claimed meets the wage standard. In making the wage calculation,
6 the taxpayer must include any positions that were filled for at least 1,600 hours during
7 the calendar year the taxpayer engages in the activity that qualifies for the credit even if
8 those positions are not filled at the time the taxpayer claims the credit. For a taxpayer
9 with a taxable year other than a calendar year, the taxpayer must use the wage standard
10 for the calendar year in which the taxable year begins. No wage standard applies to
11 credits for activities in an enterprise tier one or two area.

12 Jobs meet the wage standard if they pay an average weekly wage that is at least
13 equal to ~~the applicable percentage times one hundred ten percent (110%)~~ of the
14 applicable average weekly wage for the county in which the jobs will be located, as
15 computed by the Secretary of Commerce from data compiled by the Employment
16 Security Commission for the most recent period for which data are available. ~~The~~
17 ~~applicable percentage for jobs located in an enterprise tier one area is one hundred~~
18 ~~percent (100%). The applicable percentage for all other jobs is one hundred ten percent~~
19 ~~(110%).~~ The applicable average weekly wage is the lowest of the following: (i) the
20 average wage for all insured private employers in the county, (ii) the average wage for
21 all insured private employers in the State, and (iii) the average wage for all insured
22 private employers in the county multiplied by the county income/wage adjustment
23 factor. The county income/wage adjustment factor is the county income/wage ratio
24 divided by the State income/wage ratio. The county income/wage ratio is average per
25 capita income in the county divided by the annualized average wage for all insured
26 private employers in the county. The State income/wage ratio is the average per capita
27 income in the State divided by the annualized average wage for all insured private
28 employers in the State. The Department of Commerce must annually publish the wage
29 standard for each county."

30 **SECTION 3.** G.S. 105-129.3A is amended by adding a new subsection to
31 read:

32 "(d) Parcel of Property Partially in a Development Zone. – For the purposes of this
33 section, a parcel of property that is located partially within a development zone is
34 considered entirely within the development zone if all of the following conditions are
35 satisfied:

- 36 (1) At least fifty percent (50%) of the parcel is located within the
37 development zone.
- 38 (2) The parcel was in existence and under common ownership prior to the
39 most recent federal decennial census.
- 40 (3) The parcel is a portion of land made up of one or more tracts or tax
41 parcels of land that is surrounded by a continuous perimeter
42 boundary."

43 **SECTION 4.** In addition to heightening the incentive effect of the William
44 S. Lee Quality Jobs and Business Expansion Act in lower-tiered counties, the changes

1 in Section 1 of this act are intended to reduce the cost of the Act and make more
2 revenues available to the State of North Carolina in future years. It is the intent of the
3 General Assembly in making these changes to provide a source of funds that could be
4 used in future years to support other, more targeted economic development programs
5 aimed at helping create new jobs in North Carolina.

6 **SECTION 5.(a)** Article 10 of Chapter 143B of the General Statutes is
7 amended by adding a new Part to read:

8 "Part 2F.

9 "Job Development Investment Grant Program.

10 **"§ 143B-437.44. Legislative findings and purpose.**

11 The General Assembly finds that:

- 12 (1) It is the policy of the State of North Carolina to stimulate economic
13 activity and to create new jobs for the citizens of the State by
14 encouraging and promoting the expansion of existing business and
15 industry within the State and by recruiting and attracting new business
16 and industry to the State.
- 17 (2) Both short-term and long-term economic trends at the State, national,
18 and international levels have made the successful implementation of
19 the State's economic development policy and programs both more
20 critical and more challenging; and the decline in the State's traditional
21 industries, and the resulting adverse impact upon the State and its
22 citizens, have been exacerbated in recent years by adverse national and
23 State economic trends that contribute to the reduction in the State's
24 industrial base and that inhibit the State's ability to sustain or attract
25 new and expanding businesses.
- 26 (3) The economic condition of the State is not static and recent changes in
27 the State's economic condition have created economic distress that
28 requires a reevaluation of certain existing State programs and the
29 enactment of a new program as provided in this Part that are designed
30 to stimulate new economic activity and to create new jobs within the
31 State.
- 32 (4) The enactment of this Part is necessary to stimulate the economy,
33 facilitate economic recovery, and create new jobs in North Carolina;
34 and this Part will promote the general welfare and confer, as its
35 primary purpose and effect, benefits on citizens throughout the State
36 through the creation of new jobs, an enlargement of the overall tax
37 base, an expansion and diversification of the State's industrial base,
38 and an increase in revenue to the State and its political subdivisions.
- 39 (5) The purpose of this Part is to stimulate economic activity and to create
40 new jobs within the State.
- 41 (6) It is not the intent of the General Assembly that grants provided
42 through this Part be used as venture capital funds, business incubator
43 funds, or business start-up funds or to otherwise fund the initial
44 capitalization needs of new businesses.

- 1 (7) Nothing in this Part shall be construed to constitute a guarantee or
2 assumption by the State of any debt of any business or to authorize the
3 taxing power or the full faith and credit of the State to be pledged.

4 **"§ 143B-437.45. Definitions.**

5 The following definitions apply in this Part:

- 6 (1) Agreement. – A community economic development agreement under
7 G.S. 143B-437.51.
- 8 (2) Base years. – The first two complete calendar years following the
9 effective date of an agreement.
- 10 (3) Business. – A corporation, sole proprietorship, cooperative association,
11 partnership, S corporation, limited liability company, nonprofit
12 corporation, or other form of business organization, located either
13 within or outside this State.
- 14 (4) Committee. – The Economic Investment Committee established
15 pursuant to G.S. 143B-437.48.
- 16 (5) Eligible position. – A position created by a business and filled by a
17 new full-time employee in this State during the base years or in
18 subsequent years of a grant.
- 19 (6) Full-time employee. – A person who is employed for consideration for
20 at least 35 hours a week, whose wages are subject to withholding
21 under Article 4A of Chapter 105 of the General Statutes, and who is
22 determined by the Committee to be employed in a permanent position
23 according to criteria it develops. The term does not include any person
24 who works as an independent contractor or on a consulting basis for
25 the business.
- 26 (7) New employee. – A full-time employee who represents a net increase
27 in the number of the business's employees statewide and who is first
28 employed on the project that is the subject of an agreement. The term
29 includes an employee rehired or called back from a layoff that occurs
30 during or following the base years to a vacant position previously held
31 by that employee or to a new position established during or following
32 the base years.
- 33 (8) Related member. – Defined in G.S. 105-130.7A.
- 34 (9) Withholdings. – The amount withheld by a business from the wages of
35 employees in eligible positions under Article 4A of Chapter 105 of the
36 General Statutes.

37 **"§ 143B-437.46. Job Development Investment Grant Program.**

38 (a) Program. – There is established the Job Development Investment Grant
39 Program to be administered by the Economic Investment Committee. In order to foster
40 job creation and investment in the economy of this State, the Committee may enter into
41 negotiated agreements with businesses to provide grants in accordance with the
42 provisions of this Part. The Committee shall develop criteria to be used in determining
43 whether the conditions of this section are satisfied and whether the project described in

1 the application is otherwise consistent with the purposes of this Part. Before entering
 2 into an agreement, the Committee must find that all the following conditions are met:

- 3 (1) The project proposed by the business will create, during the term of the
 4 agreement, a net increase in employment in this State by the business.
- 5 (2) The project will benefit the people of this State by increasing
 6 opportunities for employment and by strengthening this State's
 7 economy by, for example, providing worker training opportunities,
 8 constructing and enhancing critical infrastructure, increasing
 9 development in strategically important industries, or increasing the
 10 State and local tax base.
- 11 (3) The project is consistent with economic development goals for the
 12 State and for the area where it will be located.
- 13 (4) A grant under this Part is necessary for the completion of the project in
 14 this State.
- 15 (5) The total benefits of the project to the State outweigh its costs and
 16 render the grant appropriate for the project.

17 (b) Cap. – The maximum number of agreements the Committee may enter into
 18 each fiscal year is 25.

19 **§ 143B-437.47. Eligible projects.**

20 (a) Minimum Number of Eligible Positions. – A business may apply to the
 21 Committee for a grant for any project that creates the minimum number of eligible
 22 positions as set out in the table below. If the project will be located in more than one
 23 enterprise tier area, the location with the highest enterprise tier area designation
 24 determines the minimum number of eligible positions that must be created.

<u>Enterprise Tier Area</u>	<u>Number of Eligible Positions</u>
<u>Tier One</u>	<u>10</u>
<u>Tier Two</u>	<u>10</u>
<u>Tier Three</u>	<u>10</u>
<u>Tier Four</u>	<u>20</u>
<u>Tier Five</u>	<u>20</u>

31 (b) Nonretail Facilities. – A project that consists solely of retail facilities is not
 32 eligible for a grant under this Part. If a project consists of both retail facilities and
 33 nonretail facilities, only the portion of the project consisting of nonretail facilities is
 34 eligible for a grant, and only the withholdings from employees in eligible positions that
 35 are employed exclusively in the portion of the project that represents nonretail facilities
 36 may be used to determine the amount of the grant. If a warehouse facility is part of a
 37 retail facility and supplies only that retail facility, the warehouse facility is not eligible
 38 for a grant. For the purposes of this Part, catalog distribution centers are not retail
 39 facilities.

40 (c) Health Insurance. – A business is eligible for a grant under this Part only if
 41 the business provides health insurance for all of the full-time employees of the project
 42 with respect to which the grant is made. For the purposes of this subsection, a business
 43 provides health insurance if it pays at least fifty percent (50%) of the premiums for
 44 health care coverage that equals or exceeds the minimum provisions of the basic health

1 care plan of coverage recommended by the Small Employer Carrier Committee
2 pursuant to G.S. 58-50-125.

3 Each year that a business receives a grant under this Part, the business must provide
4 with the submission required under G.S. 143B-437.52 a certification that the business
5 continues to provide health insurance for all full-time employees of the project with
6 respect to which the grant is made. If the business ceases to provide health insurance to
7 all full-time employees of the project with respect to which a grant is made, the
8 Committee may amend or terminate the agreement as provided in G.S. 143B-437.53.

9 (d) Wage Standard. – In order for a business to be eligible for a grant under this
10 Part, the average wage of all jobs at the location with respect to which a grant is made
11 must meet the wage standard set out in G.S. 105-129.4(b). If a project is to be located at
12 more than one location, the average wage of all jobs at a location must meet the wage
13 standard set out in G.S. 105-129.4(b) in order for that location to be included in the
14 agreement.

15 **"§ 143B-437.48. Economic Investment Committee established.**

16 (a) Membership. – The Economic Investment Committee is established. The
17 Committee consists of the following members:

18 (1) The Secretary of Commerce.

19 (2) The Secretary of Revenue.

20 (3) The Director of the Office of State Budget and Management.

21 (b) Unanimous Decision Required. – The Committee may act only upon a
22 unanimous decision of its members.

23 (c) Conflict of Interest. – It is unlawful for a former member of the Committee
24 to, within two years after the end of service on the Committee, provide services for
25 compensation, as an employee, consultant, or otherwise, to any business or a related
26 member of the business that was awarded a grant under this Part while the former
27 member was serving on the Committee. Violation of this subsection is a Class 1
28 misdemeanor.

29 (d) Sunshine. – Meetings of the Committee are subject to the open meetings
30 requirements of Article 33C of Chapter 143 of the General Statutes. All documents of
31 the Committee, including applications for grants, are public records governed by
32 Chapter 132 of the General Statutes, including applicable provisions of that Chapter
33 protecting confidential information.

34 **"§ 143B-437.49. Applications; fees; reports; study.**

35 (a) Application. – A business shall apply, under oath, to the Committee for a
36 grant on a form prescribed by the Committee that includes at least all of the following:

37 (1) The name of the business, the proposed location of the project, and the
38 type of activity in which the business will engage at the project site or
39 sites.

40 (2) The names and addresses of the principals or management of the
41 business, the nature of the business, and the form of business
42 organization under which it is operated.

43 (3) The most recent audited financial statements of the business and any
44 other financial information the Committee considers necessary.

- 1 (4) The number of eligible positions proposed to be created during the
2 base years and thereafter and the salaries for these positions.
- 3 (5) An estimate of the total withholdings.
- 4 (6) Certification that the business will provide health insurance to all
5 full-time employees of the project.
- 6 (7) Information concerning other locations, including locations in other
7 states and countries, being considered for the project and the nature of
8 any benefits that would accrue to the business if the project were to be
9 located in one of those locations.
- 10 (8) Information concerning any other State or local government incentives
11 for which the business is applying or that it has an expectation of
12 receiving.
- 13 (9) Any other information necessary for the Committee to evaluate the
14 application.
- 15 (10) Certification that the project will not be undertaken in North Carolina
16 unless the applicant is awarded a grant.

17 A business may apply, in one consolidated application in a form and manner
18 determined by the Committee, for a grant on its own behalf as a business and for grants
19 on behalf of the related members of the business who may qualify under this Part.

20 The Committee will consider an application by a business for grants on behalf of its
21 related members only if the related members for whom the application is submitted
22 have assigned to the business any claim of right the related members may have under
23 this Part to apply for grants individually during the term of the agreement and have
24 agreed to cooperate with the business in providing to the Committee all the information
25 required for the initial application and the agreement, and any other information the
26 Committee may require for the purposes of this Part. The applicant business is
27 responsible for providing to the Committee all the information required under this Part.

28 If a business applies for a grant on behalf of its related members, the related
29 members included in the application may be permitted to meet the qualifications for a
30 grant collectively by participating in a project that meets the requirements of this Part.
31 The amount of a grant may be calculated under the terms of this Part as if the related
32 members were all collectively one business entity. Any conditions for a grant, other
33 than the number of eligible positions created, apply to each related member who is
34 listed in the application as participating in the project. The grants awarded shall be paid
35 to the applicant business. A grant received under this Part by a business may be
36 apportioned to the related members in a manner determined by the business. In order for
37 an agreement to be executed, each related member included in the application must sign
38 the agreement and agree to abide by its terms.

39 (b) Application Fee. – When filing an application under this section, the business
40 must pay the Committee a fee of five thousand dollars (\$5,000). The fee is due at the
41 time the application is filed. The Committee shall determine the allocation of the fee
42 imposed by this section among the agencies whose heads make up the Committee. The
43 proceeds of the fee are receipts of the agency to which they are credited.

1 (c) Reports. – The Committee shall publish a report on the Job Development
2 Investment Grant Program on or before October 31 of each year. The report shall
3 include the following:

- 4 (1) A listing of each community economic development agreement
5 negotiated and entered into during the preceding fiscal year, including
6 the cost/benefit analysis conducted by the Committee during the
7 application process, a description of the project, and the amount of the
8 grant made under the agreement during that year.
- 9 (2) An update on the status of projects under agreements entered into
10 before the preceding fiscal year.
- 11 (3) The number and enterprise tier area of eligible positions created by
12 projects with respect to which grants were awarded.
- 13 (4) The wage levels of eligible positions created by projects with respect
14 to which grants were awarded.
- 15 (5) The amount of new income tax revenue received from withholdings
16 related to the projects for which grants were awarded.
- 17 (6) The criteria developed by the Committee to implement this Part and
18 any changes in those criteria from the previous fiscal year.
- 19 (7) The effectiveness of the program in recruiting new and expanding
20 businesses.
- 21 (8) The environmental impact of businesses that have received grants
22 under the program.
- 23 (9) The geographic distribution of grants, by number and amount, awarded
24 under the program.

25 (d) Study. – The Committee shall conduct a study to determine the minimum
26 funding level required to implement the Job Development Investment Grant Program
27 successfully. The Committee shall report the results of this study to the House of
28 Representatives Finance Committee, the Senate Finance Committee, the House of
29 Representatives Appropriations Subcommittee on Natural and Economic Resources, the
30 Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal
31 Research Division no later than March 1 of each year.

32 **"§ 143B-437.50. Calculation of minimum and maximum grants; factors considered.**

33 (a) Subject to the limitations of subsection (d) of this section, the amount of the
34 grant awarded in each case shall be a percentage of the withholdings of eligible
35 positions. The percentage shall be no less than ten percent (10%) and no more than
36 eighty percent (80%) of the withholdings of the eligible positions for a period of years.
37 The percentage used to determine the amount of the grant shall be based on criteria
38 developed by the Committee after considering at least the following:

- 39 (1) The number of eligible positions to be created.
- 40 (2) The expected duration of those positions.
- 41 (3) The type of contribution the business can make to the long-term
42 growth of the State's economy.
- 43 (4) The amount of other financial assistance the project will receive from
44 the State or local governments.

- 1 (5) The total dollar investment the business is making in the project.
2 (6) Whether the project utilizes existing infrastructure and resources in the
3 community.
4 (7) Whether the project is located in a development zone.
5 (8) The number of eligible positions that would be filled by residents of a
6 development zone.

7 (b) The term of the grant shall not exceed 15 years starting with the first year a
8 grant is made.

9 (c) The grant may be based only on eligible positions created during the base
10 years, unless the Committee makes an explicit determination that the grant shall also be
11 based on additional eligible positions created during the remainder of the term of the
12 grant.

13 (d) The percentage established in the agreement shall be reduced by one-fourth
14 for any eligible position that is located in an enterprise tier four or five area.

15 (e) A business that is receiving any other grant by operation of State law may not
16 receive an amount as a grant pursuant to this Part that, when combined with any other
17 grants, exceeds eighty percent (80%) of the withholdings of the business, unless the
18 Committee makes an explicit finding that the additional grant is necessary to secure the
19 project.

20 **"§ 143B-437.51. Community economic development agreement.**

21 Each community economic development agreement shall include at least the
22 following:

- 23 (1) A detailed description of the proposed project that will result in job
24 creation and the number of new employees to be hired in the base
25 years and later years.
26 (2) The term of the grant and the criteria used to determine the first year
27 for which the grant may be claimed.
28 (3) The number of eligible positions that are subjects of the grant and a
29 description of those positions and the location of those positions.
30 (4) The amount of the grant based on a percentage of withholdings.
31 (5) A method for determining the number of new employees hired during
32 a grant year.
33 (6) A method for the business to report annually to the Committee the
34 number of eligible positions for which the grant is to be made.
35 (7) A requirement that the business report to the Committee annually the
36 aggregate amount of withholdings during the grant year.
37 (8) A provision permitting an audit of the payroll records of the business
38 by the Committee from time to time as the Committee considers
39 necessary.
40 (9) A provision that permits the Committee to amend an agreement
41 pursuant to G.S. 143B-437.53.
42 (10) A provision that requires the business to maintain operations at the
43 project location or another location approved by the Committee for at
44 least one hundred fifty percent (150%) of the term of the grant and a

1 provision to permit the Committee to recapture all or part of the grant
2 at its discretion if the business does not remain at the site for the
3 required term.

4 (11) A provision that requires the business to maintain employment levels
5 in this State at the level of the year immediately preceding the base
6 years.

7 (12) A provision establishing the conditions under which the grant
8 agreement may be terminated, in addition to those under G.S.
9 143B-437.53, and under which grant funds may be recaptured by the
10 Committee.

11 (13) A provision stating that unless the agreement is amended or terminated
12 pursuant to G.S. 143B-437.53, the agreement is binding and
13 constitutes a pledge and a continuing appropriation of the amount of
14 the grant.

15 (14) A provision setting out any allowed variation in the terms of the
16 agreement that will not subject the business to amendment or
17 termination of the agreement under G.S. 143B-437.53.

18 **"§ 143B-437.52. Grant recipient to submit records.**

19 (a) No later than February 1 of each year, for the preceding grant year, every
20 business that is awarded a grant under this Part shall submit to the Committee a copy of
21 its State and federal tax returns showing business and nonbusiness income and a report
22 showing withholdings as a condition of its continuation in the grant program. In
23 addition, the business shall submit to the Committee an annual payroll report showing
24 the eligible positions that are created during the base years and the new eligible
25 positions created during each subsequent year of the grant. When making a submission
26 under this section, the business must pay the Committee a fee of one thousand five
27 hundred dollars (\$1,500). The fee is due at the time the submission is made. The
28 Committee shall determine the allocation of the fee imposed by this section among the
29 agencies whose heads make up the Committee. The proceeds of the fee are receipts of
30 the agency to which they are credited.

31 (b) The Committee may require any information that it considers necessary to
32 effectuate the provisions of this Part.

33 (c) The Committee may require any business receiving a grant to submit to an
34 audit at any time.

35 (d) Grant recipients are encouraged to use the State ports of North Carolina and
36 must include in the report required by subsection (a) of this section a report on the
37 tonnage of any freight moved in ocean-borne commerce through the State ports and
38 through any other United States port. If freight is moved through a United States port
39 other than the State ports, then the report must disclose the reasons for using that port.

40 **"§ 143B-437.53. Failure to comply with agreement.**

41 (a) If the business receiving a grant fails to meet or comply with any condition or
42 requirement set forth in an agreement or with criteria developed by the Committee, the
43 Committee may amend the agreement to reduce the amount of the grant or the term of

1 the agreement. Any reduction of the grant is applicable to the grant year immediately
2 following the grant year in which the Committee amends the agreement.

3 (b) If a business fails to maintain employment at the levels stipulated in the
4 agreement or otherwise fails to comply with any condition of the agreement for any two
5 consecutive years, the Committee may terminate the agreement.

6 **"§ 143B-437.54. Disbursement of grant.**

7 A business may not receive an annual disbursement of a grant if, at the time of
8 disbursement, the business or a related member of the business has received a notice of
9 final assessment of State tax due and that assessment has not been satisfied or otherwise
10 resolved. A business may receive an annual disbursement of a grant only after the
11 Committee has certified to the State Controller that there are no outstanding final
12 assessments of State tax due and that the business has met the terms and conditions of
13 the agreement. No amount shall be disbursed to a business as a grant under this Part in
14 any year until the Secretary of Revenue has certified to the Committee (i) that there are
15 no outstanding final assessments of State tax due against the business or a related
16 member of the business and (ii) the amount of withholdings received in that year by the
17 Department of Revenue from the business. A business that has met the terms of the
18 agreement shall make an annual certification of this to the Committee. The Committee
19 shall verify this information and certify to the State Controller that the terms of the
20 agreement have been met. The Committee shall further certify to the State Controller
21 the amount of a grant for which the business is eligible under the agreement and the
22 amount of a grant for which the business would be eligible under the agreement without
23 regard to G.S. 143B-437.50(d). The State Controller shall remit a check to the business
24 in the amount of the certified grant amount within 90 days of receiving the certification
25 of the Committee.

26 **"§ 143B-437.55. Transfer to Industrial Development Fund.**

27 At the time the State Controller remits a check to a business under G.S.
28 143B-437.54, the State Controller shall transfer to the Utility Account of the Industrial
29 Development Fund an amount equal to the amount certified by the Committee as the
30 difference between the amount of the grant and the amount of the grant for which the
31 business would be eligible without regard to G.S. 143B-437.50(d).

32 **"§ 143B-437.56. Sunset.**

33 The authority of the Committee to enter into new agreements expires January 1,
34 2006."

35 **SECTION 5.(b)** In developing criteria under G.S. 143B-437.46 for the
36 awarding of grants under Part 2F of Article 10 of Chapter 143B of the General Statutes
37 and under G.S. 143B-437.50 for determining the percentage upon which the amount of
38 a grant is based, the Economic Investment Committee may consider criteria that address
39 the following:

- 40 (1) Factors related to the economic impact of the project, such as the
41 following:
42 a. Impact on gross regional product and gross State product.
43 b. Costs and benefits of the project to the State, including the
44 expected return on investment made in the project by the State.

- 1 c. Number of direct jobs that will be created by the project, the
2 wages of those jobs, and the total payroll for the project.
- 3 d. Number of induced short-term, project-related jobs expected to
4 be generated by the project as well as the number of long-term
5 permanent jobs expected to be generated indirectly in the
6 economy as a result of the project.
- 7 e. Dollar value of the investment, including the size of the
8 investment in real versus personal property and expected
9 depreciation rates.
- 10 f. Economic circumstances of the county and region, including the
11 extent to which the project will serve to mitigate
12 unemployment.
- 13 g. The expected time frame during which the project is expected
14 to pay back in State tax revenues the amount of any grants to be
15 paid out.
- 16 h. The economic demands the project is expected to place upon
17 the community or communities in which it will locate.
- 18 i. The number of eligible positions that would be filled by
19 residents of development zones.
- 20 (2) Factors related to the strategic importance of the project to the State,
21 region, or locality, such as the following:
 - 22 a. The extent to which the project builds or enhances an industrial
23 cluster.
 - 24 b. The extent to which the project falls within a classification of
25 business and industry that the Department of Commerce regards
26 as a target for growth and expansion in the State.
 - 27 c. The ability of the project to attract follow-on investment in the
28 State by suppliers and vendors.
 - 29 d. The extent to which the project serves to maintain and grow
30 jobs in the State in a business undergoing an internal
31 restructuring or rationalization process.
 - 32 e. The extent to which the project can be expected to contribute
33 significantly to and support the local community.
- 34 (3) Factors related to the quality of jobs, such as the following:
 - 35 a. The wage level and status of the jobs to be created.
 - 36 b. The quality and value of benefits offered by the company.
 - 37 c. The potential for employee advancement.
 - 38 d. The extent of training programs offered by the company.
 - 39 e. The sustainability of the jobs in the future.
 - 40 f. The workplace safety record of the company.
- 41 (4) Factors related to the quality of the industry and the project, such as
42 the following:
 - 43 a. The nature of the project and the projects' relationship to the
44 larger business of the company.

- 1 b. The nature of the industrial classification of the project and the
2 nature of the business of the company undertaking it.
3 c. The long-term prospects for growth at the project site or sites.
4 d. The long-term prospects for growth of the company and the
5 industry within the United States.
6 e. The financial stability of the company associated with the
7 project.
8 (5) Factors related to the environmental impact of the project, such as the
9 following:
10 a. The nature of the business to be conducted.
11 b. The ability of the project to satisfy State, federal, and local
12 environmental law and regulations.
13 (6) Other factors that the Economic Investment Committee considers
14 relevant that are not inconsistent with this section and that the
15 Committee determines will further the purposes of Part 2F of Article
16 10 of Chapter 143B of the General Statutes.

17 **SECTION 6.(a)** G.S. 143B-437.01(a)(1) reads as rewritten:

18 "(1) The funds shall be used for (i) installation of or purchases of
19 equipment for eligible industries, (ii) structural repairs, improvements,
20 or renovations of existing buildings to be used for expansion of
21 eligible industries, or (iii) construction of or improvements to new or
22 existing water, sewer, gas, telecommunications, high-speed broadband,
23 or electrical utility distribution lines or equipment for existing or new
24 or proposed industrial buildings to be used for eligible industries. To
25 be eligible for funding, the water, sewer, gas, telecommunications,
26 high-speed broadband, or electrical utility lines or facilities shall be
27 located on the site of the building or, if not located on the site, shall be
28 directly related to the operation of the specific eligible industrial
29 activity."

30 **SECTION 6.(b)** G.S. 143B-437.01(b1) reads as rewritten:

31 "(b1) Utility Account. – There is created within the Industrial Development Fund a
32 special account to be known as the Utility Account to provide funds to assist the local
33 government units of enterprise tier ~~one and tier two~~one, two, and three areas, as defined
34 in G.S. 105-129.3, in creating jobs in eligible industries. The Department of Commerce
35 shall adopt rules providing for the administration of the program. Except as otherwise
36 provided in this subsection, those rules shall be consistent with the rules adopted with
37 respect to the Industrial Development Fund. The rules shall provide that the funds in the
38 Utility Account may be used only for construction of or improvements to new or
39 existing water, sewer, gas, telecommunications, high-speed broadband, or electrical
40 utility distribution lines or equipment for existing or new or proposed industrial
41 buildings to be used for eligible industrial operations. To be eligible for funding, the
42 water, sewer, gas, telecommunications, high-speed broadband, or electrical utility lines
43 or facilities shall be located on the site of the building or, if not located on the site, shall

1 be directly related to the operation of the specific industrial activity. There shall be no
2 maximum funding amount per new job to be created or per project."

3 **SECTION 7.** G.S. 105-259(b) is amended by adding a new subdivision to
4 read:

5 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State
6 who has access to tax information in the course of service to or employment by the State
7 may not disclose the information to any other person unless the disclosure is made for
8 one of the following purposes:

9 ...

10 (28) To provide to the Economic Investment Committee established
11 pursuant to G.S. 143B-437.48 information necessary to implement
12 Part 2F of Article 10 of Chapter 143B of the General Statutes."

13 **SECTION 8.** G.S. 150B-1(d) is amended by adding a new subdivision to
14 read:

15 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to
16 the following:

17 ...

18 (10) The Economic Investment Committee in developing guidelines for the
19 Job Development Investment Grant Program under Part 2F of Article
20 10 of Chapter 143B of the General Statutes."

21 **SECTION 9.(a)** G.S. 153A-149(c)(10b) reads as rewritten:

22 "(c) Each county may levy property taxes for one or more of the purposes listed in
23 this subsection up to a combined rate of one dollar and fifty cents (\$1.50) on the one
24 hundred dollars (\$100.00) appraised value of property subject to taxation. Authorized
25 purposes subject to the rate limitation are:

26 ...

27 (10b) Economic Development. – To provide for economic development as
28 authorized by G.S. 158-7.1 and G.S. 158-12."

29 **SECTION 9.(b)** G.S. 160A-209(c)(10b) reads as rewritten:

30 "(c) Each city may levy property taxes for one or more of the following purposes
31 subject to the rate limitation set out in subsection (d):

32 ...

33 (10b) Economic Development. – To provide for economic development as
34 authorized by G.S. 158-7.1 and G.S. 158-12."

35 **SECTION 9.1.** The Revenue Laws Study Committee created in Article 12L
36 of Chapter 120 of the General Statutes shall study the use, the effectiveness, and the
37 cost versus benefits of the Job Development Investment Grant Program created in this
38 act, the Bill Lee Act credits in Chapter 105 of the General Statutes, and the Industrial
39 Recruitment Competitive Fund. The Study Committee may report the results of its
40 study and any recommendations to the 2004 Regular Session of the 2003 General
41 Assembly and shall make a final report by March 15, 2005, to the 2005 General
42 Assembly.

43 **SECTION 10.** Section 1 of this act is effective for taxable years beginning
44 on or after January 1, 2003, and applies to business activities that occur on or after

1 January 1, 2003, but does not apply to business activities that occur on or after January
2 1, 2003, that are subject to a letter of commitment signed under G.S. 105-129.9 before
3 January 1, 2003. Sections 2 and 3 of this act are effective for taxable years beginning
4 on or after January 1, 2003. The remainder of this act is effective when it becomes law.