

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

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**HOUSE BILL 2744\***  
**Committee Substitute Favorable 6/27/06**  
**Committee Substitute #2 Favorable 7/6/06**

Short Title: Economic Development Program Modifications. (Public)

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Sponsors:

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Referred to:

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May 30, 2006

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE MODIFICATIONS TO THE JOB DEVELOPMENT  
3 INVESTMENT GRANT PROGRAM, TO EXTEND THE WILLIAM S. LEE  
4 QUALITY JOBS AND BUSINESS EXPANSION ACT FOR CERTAIN  
5 TAXPAYERS, AND TO EXTEND CERTAIN SALES AND USE TAX  
6 REFUNDS.

7 The General Assembly of North Carolina enacts:

8  
9 **PART I. JDIG CHANGES**

10 **SECTION 1.1.** G.S. 143B-437.51 reads as rewritten:

11 **"§ 143B-437.51. Definitions.**

12 The following definitions apply in this Part:

- 13 (1) Agreement. – A community economic development agreement under  
14 G.S. 143B-437.57.
- 15 (2) ~~Base years period.~~ – ~~The first 24 months following the date set by the~~  
16 ~~Committee for performance to begin under the agreement period of~~  
17 time set by the Committee during which new employees are to be  
18 hired for the positions on which the grant is based.
- 19 (3) Business. – A corporation, sole proprietorship, cooperative association,  
20 partnership, S corporation, limited liability company, nonprofit  
21 corporation, or other form of business organization, located either  
22 within or outside this State.
- 23 (4) Committee. – The Economic Investment Committee established  
24 pursuant to G.S. 143B-437.54.
- 25 (5) Eligible position. – A position created by a business and filled by a  
26 new full-time employee in this State during the base years ~~or in~~  
27 subsequent years of a grant period.

- 1 (5a) Enterprise tier. – The classification assigned to an area pursuant to  
2 G.S. 105-129.3.
- 3 (6) Full-time employee. – A person who is employed for consideration for  
4 at least 35 hours a week, whose wages are subject to withholding  
5 under Article 4A of Chapter 105 of the General Statutes, and who is  
6 determined by the Committee to be employed in a permanent position  
7 according to criteria it develops in consultation with the Attorney  
8 General. The term does not include any person who works as an  
9 independent contractor or on a consulting basis for the business.
- 10 (7) New employee. – A full-time employee who represents a net increase  
11 in the number of the business's employees statewide. ~~The term~~  
12 ~~includes an employee who previously filled an eligible position who is~~  
13 ~~rehired or called back from a layoff that occurs during or following the~~  
14 ~~base years to a vacant position previously held by that employee or to~~  
15 ~~a new position established during or following the base years.~~
- 16 (8) Overdue tax debt. – Defined in G.S. 105-243.1.
- 17 (9) Related member. – Defined in G.S. 105-130.7A.
- 18 (10) Withholdings. – The amount withheld by a business from the wages of  
19 employees in eligible positions under Article 4A of Chapter 105 of the  
20 General Statutes."

21 **SECTION 1.2.** G.S. 143B-437.52 reads as rewritten:

22 **"§ 143B-437.52. Job Development Investment Grant Program.**

23 (a) Program. – There is established the Job Development Investment Grant  
24 Program to be administered by the Economic Investment Committee. In order to foster  
25 job creation and investment in the economy of this State, the Committee may enter into  
26 negotiated agreements with businesses to provide grants in accordance with the  
27 provisions of this Part. The Committee, in consultation with the Attorney General, shall  
28 develop criteria to be used in determining whether the conditions of this section are  
29 satisfied and whether the project described in the application is otherwise consistent  
30 with the purposes of this Part. Before entering into an agreement, the Committee must  
31 find that all the following conditions are met:

- 32 (1) The project proposed by the business will create, during the term of the  
33 agreement, a net increase in employment in this State by the business.
- 34 (2) The project will benefit the people of this State by increasing  
35 opportunities for employment and by strengthening this State's  
36 economy by, for example, providing worker training opportunities,  
37 constructing and enhancing critical infrastructure, increasing  
38 development in strategically important industries, or increasing the  
39 State and local tax base.
- 40 (3) The project is consistent with economic development goals for the  
41 State and for the area where it will be located.
- 42 (4) A grant under this Part is necessary for the completion of the project in  
43 this State.

1 (5) The total benefits of the project to the State outweigh its costs and  
2 render the grant appropriate for the project.

3 (b) Cap. – The maximum number of agreements the Committee may enter into  
4 each calendar year is 25.

5 (c) Ceiling. – ~~The Except as provided in this section, the~~ maximum amount of  
6 total annual liability for grants for agreements entered into in any single calendar year  
7 year, including amounts transferred to the Utility Account pursuant to  
8 G.S. 143B-437.61, may not exceed fifteen million dollars (\$15,000,000). The maximum  
9 amount of total annual liability for grants for agreements entered into in 2006, including  
10 amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, may not  
11 exceed thirty million dollars (\$30,000,000). No agreement may be entered into that,  
12 when considered together with other existing agreements entered into during that  
13 calendar year, could cause the State's potential total annual liability for grants entered  
14 into in that calendar year to exceed this amount.

15 (d) Measuring Employment. – For the purposes of subdivision (a)(1) of this  
16 section and G.S. 143B-437.51(5), 143B-437.51(7), and 143B-437.57(a)(11), the  
17 Committee may designate that the increase or maintenance of employment is measured  
18 at the level of a division or another operating unit of a business, rather than at the  
19 business level, if both of the following conditions are met:

20 (1) The Committee makes an explicit finding that the designation is  
21 necessary to secure the project in this State.

22 (2) ~~The designation agreement~~ contains terms to ensure that the business  
23 does not create eligible positions by transferring or shifting to the  
24 project existing positions from another project of the business or a  
25 related member of the business."

26 **SECTION 1.3.** G.S. 143B-437.53(b) reads as rewritten:

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

36 A project that consists of a professional or semiprofessional sports team or ~~club club,~~  
37 other than a professional motorsports racing team, is not eligible for a grant under this  
38 Part."

39 **SECTION 1.4.** G.S. 143B-437.55 reads as rewritten:

40 "**§ 143B-437.55. Applications; fees; reports; study.**

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

- 1 (1) The name of the business, the proposed location of the project, and the  
2 type of activity in which the business will engage at the project site or  
3 sites.
- 4 (2) The names and addresses of the principals or management of the  
5 business, the nature of the business, and the form of business  
6 organization under which it is operated.
- 7 (3) The financial statements of the business prepared by a certified public  
8 accountant and any other financial information the Committee  
9 considers necessary.
- 10 (4) The number of eligible positions proposed to be created ~~during the~~  
11 ~~base years and thereafter~~for the project and the salaries for these  
12 positions.
- 13 (5) An estimate of the total withholdings.
- 14 (6) Certification that the business will provide health insurance to ~~all~~  
15 full-time employees of the ~~project~~project as required by  
16 G.S. 143B-437.53(c).
- 17 (7) Information concerning other locations, including locations in other  
18 states and countries, being considered for the project and the nature of  
19 any benefits that would accrue to the business if the project were to be  
20 located in one of those locations.
- 21 (8) Information concerning any other State or local government incentives  
22 for which the business is applying or that it has an expectation of  
23 receiving.
- 24 (9) Any other information necessary for the Committee to evaluate the  
25 application.

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

29 The Committee will consider an application by a business for grants on behalf of its  
30 related members only if the related members for whom the application is submitted  
31 have assigned to the business any claim of right the related members may have under  
32 this Part to apply for grants individually during the term of the agreement and have  
33 agreed to cooperate with the business in providing to the Committee all the information  
34 required for the initial application and the agreement, and any other information the  
35 Committee may require for the purposes of this Part. The applicant business is  
36 responsible for providing to the Committee all the information required under this Part.

37 If a business applies for a grant on behalf of its related members, the related  
38 members included in the application may be permitted to meet the qualifications for a  
39 grant collectively by participating in a project that meets the requirements of this Part.  
40 The amount of a grant may be calculated under the terms of this Part as if the related  
41 members were all collectively one business entity. Any conditions for a grant, other  
42 than the number of eligible positions created, apply to each related member who is  
43 listed in the application as participating in the project. The grants awarded shall be paid  
44 to the applicant business. A grant received under this Part by a business may be

1 apportioned to the related members in a manner determined by the business. In order for  
2 an agreement to be executed, each related member included in the application must sign  
3 the agreement and agree to abide by its terms.

4 (b) Application Fee. – When filing an application under this section, the business  
5 must pay the Committee a fee of five thousand dollars (\$5,000). The fee is due at the  
6 time the application is filed. ~~The Secretary of Commerce, the Secretary of Revenue, and~~  
7 ~~the Director of the Office of State Budget and Management shall determine the~~  
8 ~~allocation of the fee imposed by this section among their agencies.~~ The proceeds of the  
9 fee ~~are receipts of the agency to which they are credited.~~ shall be credited to the General  
10 Fund.

11 (c) Annual Reports. – The Committee shall publish a report on the Job  
12 Development Investment Grant Program on or before April 30 of each year. The report  
13 shall include the following:

- 14 (1) A listing of each community economic development agreement  
15 negotiated and entered into during the preceding calendar year,  
16 including the name of the business, the cost/benefit analysis conducted  
17 by the Committee during the application process, a description of the  
18 project, the term of the agreement, the percentage used to determine  
19 the amount of the grant, and the amount of the grant made under the  
20 agreement during that year.
- 21 (2) An update on the status of projects under agreements entered into  
22 before the preceding calendar year.
- 23 (3) The number and enterprise tier area of eligible positions created by  
24 projects with respect to which grants were awarded.
- 25 (3a) A listing of the employment level for all businesses receiving a grant  
26 and any changes in those levels from the level of the next preceding  
27 year.
- 28 (4) The wage levels of all eligible positions created by projects with  
29 respect to which grants are awarded, aggregated and listed in  
30 increments of five thousand dollars (\$5,000).
- 31 (5) The amount of new income tax revenue received from withholdings  
32 related to the projects for which grants were awarded.
- 33 (6) The criteria developed by the Committee, in consultation with the  
34 Attorney General, to implement this Part and any changes in those  
35 criteria from the previous calendar year.
- 36 (7) The effectiveness of the program in recruiting new and expanding  
37 businesses.
- 38 (8) The environmental impact of businesses that have received grants  
39 under the program.
- 40 (9) The geographic distribution of grants, by number and amount, awarded  
41 under the program.
- 42 (10) An explanation of whether the projects with respect to which  
43 agreements are entered into involve new businesses in the State or  
44 expanding existing businesses in the State.

1 (11) A listing of all businesses making an application under this Part and an  
2 explanation of whether each business ultimately located the project in  
3 this State regardless of whether the business was awarded a grant for  
4 the project under this Part.

5 ~~(12) The division and use of fees collected by the Committee under this~~  
6 ~~section and under G.S. 143B-437.58.~~

7 (13) The total amount transferred to the Utility Account of the Industrial  
8 Development Fund under this Part during the preceding year.

9 (d) Quarterly Reports. – The Committee shall publish a report on the Job  
10 Development Investment Grant Program within two months of the end of each quarter.  
11 This report shall include a listing of each community economic development agreement  
12 negotiated and entered into during the preceding quarter, including the name of the  
13 business, the cost/benefit analysis conducted by the Committee during the application  
14 process, a description of the project, and the amount of the grant expected to be made  
15 under the agreement during the current fiscal year.

16 (e) Study. – The Committee shall conduct a study to determine the minimum  
17 funding level required to implement the Job Development Investment Grant Program  
18 successfully. The Committee shall report the results of this study to the House of  
19 Representatives Finance Committee, the Senate Finance Committee, the House of  
20 Representatives Appropriations Subcommittee on Natural and Economic Resources, the  
21 Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal  
22 Research Division no later than March 1 of each year."

23 **SECTION 1.5.** G.S. 143B-437.56 reads as rewritten:

24 **"§ 143B-437.56. Calculation of minimum and maximum grants; factors**  
25 **considered.**

26 (a) Subject to the limitations of subsection (d) of this section, the amount of the  
27 grant awarded in each case shall be a percentage of the withholdings of eligible  
28 positions. The percentage shall be no less than ten percent (10%) and no more than  
29 seventy-five percent (75%) of the withholdings of the eligible positions for a period of  
30 years. The percentage used to determine the amount of the grant shall be based on  
31 criteria developed by the Committee, in consultation with the Attorney General, after  
32 considering at least the following:

33 (1) The number of eligible positions to be created.

34 (2) The expected duration of those positions.

35 (3) The type of contribution the business can make to the long-term  
36 growth of the State's economy.

37 (4) The amount of other financial assistance the project will receive from  
38 the State or local governments.

39 (5) The total dollar investment the business is making in the project.

40 (6) Whether the project utilizes existing infrastructure and resources in the  
41 community.

42 (7) Whether the project is located in a development zone.

43 (8) The number of eligible positions that would be filled by residents of a  
44 development zone.

1 (9) The extent to which the project will mitigate unemployment in the  
2 State and locality.

3 (b) The term of the grant shall not exceed 12 years starting with the first year a  
4 grant payment is made. The first grant payment must be made within six years after the  
5 date on which the grant was awarded. The number of years in the base period for which  
6 grant payments may be made shall not exceed five years.

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

11 (d) ~~The percentage established in the agreement shall be reduced by one-fourth~~  
12 ~~for~~ For any eligible position that is located in an enterprise tier four or five area, area,  
13 seventy-five percent (75%) of the annual grant approved for disbursement shall be  
14 payable to the business, and twenty-five percent (25%) shall be payable to the Utility  
15 Account pursuant to G.S. 143B-437.61. A position is located in the enterprise tier area  
16 that has been assigned to the county in which the project is located at the time the  
17 application is filed with the Committee.

18 (e) A business that is receiving any other grant by operation of State law may not  
19 receive an amount as a grant pursuant to this Part that, when combined with any other  
20 grants, exceeds seventy-five percent (75%) of the withholdings of the business, unless  
21 the Committee makes an explicit finding that the additional grant is necessary to secure  
22 the project.

23 (f) ~~The amount of a grant associated with any specific eligible position~~ position,  
24 including any amount transferred to the Utility Account pursuant to G.S. 143B-437.61,  
25 may not exceed six thousand five hundred dollars (\$6,500) in any year."

26 **SECTION 1.6.** G.S. 143B-437.57(a) reads as rewritten:

27 "(a) Terms. – Each community economic development agreement shall include at  
28 least the following:

- 29 (1) A detailed description of the proposed project that will result in job  
30 creation and the number of new employees to be hired ~~in~~ during the  
31 ~~base years and later years period.~~
- 32 (2) The term of the grant and the criteria used to determine the first year  
33 for which the grant may be claimed.
- 34 (3) The number of eligible positions that are subjects of the grant and a  
35 description of those positions and the location of those positions.
- 36 (4) The amount of the grant based on a percentage of withholdings.
- 37 (5) A method for determining the number of new employees hired during  
38 a grant year.
- 39 (6) A method for the business to report annually to the Committee the  
40 number of eligible positions for which the grant is to be made.
- 41 (7) A requirement that the business report to the Committee annually the  
42 aggregate amount of withholdings during the grant year.

- 1 (8) A provision permitting an audit of the payroll records of the business  
2 by the Committee from time to time as the Committee considers  
3 necessary.
- 4 (9) A provision that requires the Committee to amend an agreement  
5 pursuant to G.S. 143B-437.59.
- 6 (10) A provision that requires the business to maintain operations at the  
7 project location or another location approved by the Committee for at  
8 least one hundred fifty percent (150%) of the term of the grant and a  
9 provision to permit the Committee to recapture all or part of the grant  
10 at its discretion if the business does not remain at the site for the  
11 required term.
- 12 (11) A provision that requires the business to maintain employment levels  
13 in this State at the level of the year immediately preceding the base  
14 years-period.
- 15 (12) A provision establishing the conditions under which the grant  
16 agreement may be terminated, in addition to those under  
17 G.S. 143B-437.59, and under which grant funds may be recaptured by  
18 the Committee.
- 19 (13) A provision stating that unless the agreement is amended or terminated  
20 pursuant to G.S. 143B-437.59, the agreement is binding and  
21 constitutes a continuing contractual obligation of the State and the  
22 business.
- 23 (14) A provision setting out any allowed variation in the terms of the  
24 agreement that will not subject the business to amendment or  
25 termination of the agreement under G.S. 143B-437.59.
- 26 (15) A provision that prohibits the business from manipulating or  
27 attempting to manipulate employee withholdings with the purpose of  
28 increasing the amount of the grant and that requires the Committee to  
29 terminate the agreement and take action to recapture grant funds if the  
30 Committee finds that the business has manipulated or attempted to  
31 manipulate withholdings with the purpose of increasing the amount of  
32 the grant.
- 33 (16) A provision requiring that the business engage in fair employment  
34 practices as required by State and federal law and a provision  
35 encouraging the business to use small contractors, minority  
36 contractors, physically handicapped contractors, and women  
37 contractors whenever practicable in the conduct of its business.
- 38 (17) A provision encouraging the business to hire North Carolina residents.
- 39 (18) A provision encouraging the business to use the North Carolina State  
40 Ports.
- 41 (19) A provision stating that the State is not obligated to make any annual  
42 grant payment unless and until the State has received withholdings  
43 from the business in an amount that exceeds the amount of the grant  
44 payment.



- 1 (20) A provision describing the manner in which the amount of a grant will  
2 be measured and administered to ensure compliance with the  
3 provisions of G.S. 143B-437.52(c).
- 4 (21) A provision stating that any recapture of a grant and any amendment to  
5 an agreement reducing the amount of the grant or the term of the  
6 agreement must, at a minimum, be proportional to the failure to  
7 comply measured relative to the condition or criterion with respect to  
8 which the failure occurred.
- 9 (22) A provision stating that any disputes over interpretation of the  
10 agreement shall be submitted to binding arbitration.
- 11 (23) A provision stating that the amount of a grant associated with any  
12 specific eligible ~~position~~ position, including any amount transferred to  
13 the Utility Account pursuant to G.S. 143B-437.61, may not exceed six  
14 thousand five hundred dollars (\$6,500) in any year.
- 15 (24) A provision stating that the business agrees to submit to an audit at any  
16 time that the Committee requires one.
- 17 (25) A provision encouraging the business to contract with small businesses  
18 headquartered in the State for goods and services."

19 **SECTION 1.7.** G.S. 143B-437.58 reads as rewritten:

20 **"§ 143B-437.58. Grant recipient to submit records.**

21 (a) No later than March 1 of each year, for the preceding grant year, every  
22 business that is awarded a grant under this Part shall submit to the Committee a report  
23 showing withholdings as a condition of its continuation in the grant program. In  
24 addition, during the base period, the business shall submit to the Committee an annual  
25 payroll report showing the eligible positions that ~~are have been~~ created during the ~~base~~  
26 ~~years and the new eligible positions created during each subsequent~~ preceding calendar  
27 year, and, subsequent to the base period, the business shall submit to the Committee an  
28 annual report showing the eligible positions that remain filled at the end of each year of  
29 the grant. Annual reports submitted to the Committee shall include social security  
30 numbers of individual employees identified in the reports. Upon request of the  
31 Committee, the business shall also submit a copy of its State and federal tax returns.  
32 Payroll and tax ~~information~~ information, including social security numbers of individual  
33 employees and State and federal tax returns, submitted under this subsection is tax  
34 information subject to G.S. 105-259. Aggregated payroll or withholding tax information  
35 submitted or derived under this subsection is not tax information subject to  
36 G.S. 105-259. When making a submission under this section, the business must pay the  
37 Committee a fee of one thousand five hundred dollars (\$1,500). The fee is due at the  
38 time the submission is made. ~~The Secretary of Commerce, the Secretary of Revenue,~~  
39 ~~and the Director of the Office of State Budget and Management shall determine the~~  
40 ~~allocation of the fee imposed by this section among their agencies.~~ The proceeds of the  
41 fee are receipts of the agency to which they are credited. shall be credited to the General  
42 Fund.

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

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

3 (d) The reporting procedures of this section are in lieu of any other general  
4 reporting requirements relating to private entities that receive State funds."

5 **SECTION 1.8.** G.S. 143B-437.59 reads as rewritten:

6 **"§ 143B-437.59. Failure to comply with agreement.**

7 (a) If the business receiving a grant fails to meet or comply with any condition or  
8 requirement set forth in an agreement or with criteria developed by the Committee in  
9 consultation with the Attorney General, the Committee shall amend the agreement to  
10 reduce the amount of the grant or the term of the agreement and may terminate the  
11 agreement. Any reduction of the grant is applicable to the grant year immediately  
12 following the grant year in which the ~~Committee amends~~business fails to comply with  
13 the agreement. The reduction in the amount or the term must, at a minimum, be  
14 proportional to the failure to comply measured relative to the condition or criterion with  
15 respect to which the failure occurred.

16 (b) If a business fails to maintain employment at the levels stipulated in the  
17 agreement or otherwise fails to comply with any condition of the agreement for any two  
18 consecutive ~~years, the Committee shall terminate the agreement.~~years:

19 (1) If the business is still within the base period established by the  
20 Committee, the Committee shall withhold the grant payment for any  
21 consecutive year remaining in the base period in which the business  
22 fails to comply with any condition of the agreement, and the  
23 Committee may extend the base period for up to 24 additional months.  
24 Under no circumstances may the Committee extend the base period by  
25 more than a total of 24 months. In no event shall the term of the grant  
26 be extended beyond the date set by the Committee at the time the  
27 Committee awarded the grant.

28 (2) If the business is no longer within the base period established by the  
29 Committee, the Committee shall terminate the agreement.

30 (c) Notwithstanding the provisions of subsections (a) and (b) of this section, if  
31 the Committee finds that the business has manipulated or attempted to manipulate  
32 employee withholdings with the purpose of increasing the amount of a grant, the  
33 Committee shall immediately terminate the agreement and take action to recapture any  
34 grant funds disbursed in any year in which the Committee finds the business  
35 manipulated or attempted to manipulate employee withholdings with the purpose of  
36 increasing the amount of the grant."

37 **SECTION 1.9.** G.S. 143B-437.60 reads as rewritten:

38 **"§ 143B-437.60. Disbursement of grant.**

39 A business may not receive an annual disbursement of a grant if, at the time of  
40 disbursement, the business has received a notice of an overdue tax debt and that overdue  
41 tax debt has not been satisfied or otherwise resolved. A business may receive an annual  
42 disbursement of a grant only after the Committee has certified ~~to the State Controller~~  
43 that there are no outstanding overdue tax debts and that the business has met the terms  
44 and conditions of the agreement. No amount shall be disbursed to a business as a grant

1 under this Part in any year until the Secretary of Revenue has certified to the Committee  
2 (i) that there are no outstanding overdue tax debts of the business and (ii) the amount of  
3 withholdings received in that year by the Department of Revenue from the business. A  
4 business that has met the terms of the agreement shall make an annual certification of  
5 this to the Committee. The Committee shall require the business to provide any  
6 necessary evidence of compliance to verify this information and certify to the State  
7 ~~Controller~~ that the terms of the agreement have been met. The Committee shall ~~further~~  
8 ~~certify to the State Controller~~ the grant amount of a grant for which the business is  
9 eligible under the agreement and the grant amount of a grant for which the business  
10 would be eligible under the agreement without regard to G.S. 143B-437.56(d). The  
11 ~~State Controller~~ Department of Commerce shall remit a check to the business in the  
12 amount of the certified grant amount within 90 days of receiving the certification of the  
13 Committee."

14 **SECTION 1.10.** G.S. 143B-437.61 reads as rewritten:

15 "**§ 143B-437.61. Transfer to Industrial Development Fund.**

16 At the time the ~~State Controller~~ Department of Commerce remits a check to a  
17 business under G.S. 143B-437.60, the ~~State Controller~~ Department of Commerce shall  
18 transfer to the Utility Account of the Industrial Development Fund an amount equal to  
19 the amount certified by the Committee as the difference between the amount of the  
20 grant and the amount of the grant for which the business would be eligible without  
21 regard to G.S. 143B-437.56(d)."

22 **SECTION 1.11.** G.S. 143B-437.62 reads as rewritten:

23 "**§ 143B-437.62. Expiration.**

24 The authority of the Committee to enter into new agreements expires January 1,  
25 ~~2008~~ 2010."

26 **SECTION 1.12.** There is appropriated from the General Fund to the  
27 Department of Commerce the sum of five hundred thousand dollars (\$500,000) for the  
28 2006-2007 fiscal year for the administration of the Job Development Investment Grant  
29 Program and the monitoring of grants under the Program. It is the intent of the General  
30 Assembly that this be a recurring appropriation.

31 **SECTION 1.13.** The Department of Commerce shall conduct a  
32 comprehensive, systematic study of the Job Development Investment Grant Program.  
33 The study shall be completed and submitted to the Chairs of the House of  
34 Representatives and Senate Finance Committees and the House of Representatives and  
35 Senate Appropriations Committees no later than February 1, 2007. The study shall  
36 include an examination of the following:

- 37 (1) The costs of the program on an aggregate basis, an enterprise tier area  
38 basis, and a project basis. This study shall include an examination of  
39 the amount spent per job on an aggregate basis, an enterprise tier area  
40 basis, and a project basis.
- 41 (2) The costs of the program in relation to other State economic  
42 development incentive programs.

1 (3) The costs of the program in relation to economic development  
2 programs located in nearby states and other states with which the State  
3 frequently competes for jobs.

4 (4) The extent to which the program has been utilized in geographically  
5 diverse parts of the State and the extent to which the program has been  
6 utilized in urban, suburban, and rural settings.

7 **SECTION 1.14.** Section 1.12 of this part becomes effective July 1, 2006.  
8 The remainder of this part is effective when it becomes law.

9  
10 **PART II. BILL LEE ACT CHANGES**

11 **SECTION 2.1.** G.S. 105-129.2A(a2) reads as rewritten:

12 "(a2) Sunset for Eligible Major Industries. – Notwithstanding subsection (a) of this  
13 section, in the case of a taxpayer that qualifies as an eligible major industry on or before  
14 January 1, ~~2006,2008~~, this Article is repealed effective for business activities that occur  
15 on or after January 1, 2010."

16 **SECTION 2.2.** This part is effective when it becomes law.  
17

18 **PART III. SALES TAX REFUND CHANGES**

19 **SECTION 3.1.** G.S. 105-164.14(j) reads as rewritten:

20 "(j) Certain Industrial Facilities. – The owner of an eligible facility is allowed an  
21 annual refund of sales and use taxes as provided in this subsection.

22 (1) Refund. – The owner of an eligible facility is allowed an annual refund  
23 of sales and use taxes paid by it under this Article on qualified building  
24 materials, building supplies, fixtures, and equipment that become a  
25 part of the real property of the eligible facility. Liability incurred  
26 indirectly by the owner for sales and use taxes on these items is  
27 considered tax paid by the owner. Building materials, building  
28 supplies, fixtures, and equipment are qualified if they are installed in  
29 the construction of the facility. Purchases for subsequent repair,  
30 renovation, or equipment replacement are not qualified.

31 A request for a refund must be in writing and must include any  
32 information and documentation required by the Secretary. A request  
33 for a refund is due within six months after the end of the State's fiscal  
34 year. Refunds applied for after the due date are barred.

35 (2) Eligibility. – A facility is eligible under this subsection if it meets ~~both~~  
36 all of the following conditions:

37 a. It is primarily engaged in one of the industries listed in this  
38 subsection.

39 b. The Secretary of Commerce has certified that the owner of the  
40 facility will invest at least the required amount of private funds  
41 to construct the facility in this State. For the purpose of this  
42 subsection, costs of construction may include costs of acquiring  
43 and improving land for the facility and costs of equipment for  
44 the facility. If the facility is located in an enterprise tier one,

1 two, or three area as defined in G.S. 105-129.3, the required  
2 amount is fifty million dollars (\$50,000,000). For all other  
3 facilities, the required amount is one hundred million dollars  
4 (\$100,000,000). In the case of a computer manufacturing  
5 facility, the owner may invest these funds either directly or  
6 indirectly through a related entity or strategic partner as those  
7 terms are defined in G.S. 105-129.61. ~~In the case of a computer~~  
8 ~~manufacturing facility,~~ For the purpose of this subsection, the  
9 term 'facility' has the same meaning as under G.S. 105-129.61.

10 c. If the facility is primarily engaged in financial services,  
11 securities operations, and related systems development, it  
12 satisfies all of the following conditions:

13 1. It is owned and operated by the business for which the  
14 services are provided or by a related entity of that  
15 business as defined in G.S. 105-130.7A.

16 2. No part of it is leased to a third-party tenant that is not a  
17 related entity of the business.

18 (3) Industries. – This subsection applies to the following industries:

19 a. Air courier services. Air courier services has the same meaning  
20 as in G.S. 105-129.2.

21 b. Aircraft manufacturing. Aircraft manufacturing means  
22 manufacturing or assembling complete aircraft.

23 c. Bioprocessing. Bioprocessing means biomanufacturing or  
24 processing that includes the culture of cells to make commercial  
25 products, the purification of biomolecules from cells, or the use  
26 of these molecules in manufacturing.

27 d. Computer manufacturing. Computer manufacturing means  
28 manufacturing or assembling electronic computers, such as  
29 personal computers, workstations, laptops, and computer  
30 servers. The term includes the assembly or integration of  
31 processors, coprocessors, memory, storage, and input/output  
32 devices into a user-programmable final product. The term  
33 includes manufacturing or assembling computer peripheral  
34 equipment, such as storage devices, printers, monitors,  
35 input/output devices, and terminals only if the manufacture or  
36 assembly of this peripheral equipment occurs at a facility or  
37 campus at which the taxpayer also manufactures or assembles  
38 electronic computers.

39 e. Reserved for future codification purposes.

40 f. Financial services, securities operations, and related systems  
41 development. Financial services, securities operations, and  
42 related systems development means one or both of the  
43 following functions:

- 1 1. Performing analysis, operations, trading, or sales  
2 functions for investment banking, securities dealing and  
3 brokering, securities trading and underwriting,  
4 investment portfolio/mutual fund management,  
5 retirement services, or employee benefit administration.
- 6 2. Developing information technology systems and  
7 applications, managing and enhancing operating  
8 applications and databases, or providing, operating, and  
9 maintaining telecommunications networks and  
10 distributed and mainframe computing resources for  
11 investment banking, securities dealing and brokering,  
12 securities trading and underwriting, investment  
13 portfolio/mutual fund management, retirement services,  
14 or employee benefit administration.
- 15 g. Motor vehicle manufacturing. Motor vehicle manufacturing  
16 means any of the following:
  - 17 1. Manufacturing complete automobiles and light-duty  
18 motor vehicles.
  - 19 2. Manufacturing heavy-duty truck chassis and assembling  
20 complete heavy-duty trucks, buses, heavy-duty motor  
21 homes, and other special purpose heavy-duty motor  
22 vehicles for highway use.
  - 23 3. Manufacturing complete military armored vehicles,  
24 nonarmored military universal carriers, combat tanks,  
25 and specialized components for combat tanks.
- 26 h. Reserved for future codification purposes.
- 27 i. Reserved for future codification purposes.
- 28 j. Pharmaceutical and medicine manufacturing and distribution of  
29 pharmaceuticals and medicines. Pharmaceutical and medicine  
30 manufacturing means any of the following:
  - 31 1. Manufacturing biological and medicinal products. For  
32 the purpose of this sub-subdivision, a biological product  
33 is a preparation that is synthesized from living organisms  
34 or their products and used medically as a diagnostic,  
35 preventive, or therapeutic agent. For the purpose of this  
36 sub-subdivision, bacteria, viruses, and their parts are  
37 considered living organisms.
  - 38 2. Processing botanical drugs and herbs by grading,  
39 grinding, and milling.
  - 40 3. Isolating active medicinal principals from botanical  
41 drugs and herbs.
  - 42 4. Manufacturing pharmaceutical products intended for  
43 internal and external consumption in forms such as

- 1 ampoules, tablets, capsules, vials, ointments, powders,  
 2 solutions, and suspensions.  
 3 k. Reserved for future codification purposes.  
 4 l. Reserved for future codification purposes.  
 5 m. Semiconductor manufacturing. Semiconductor manufacturing  
 6 means development and production of semiconductor material,  
 7 devices, or components.  
 8 (4) Forfeiture. – If the owner of an eligible facility does not make the  
 9 required minimum investment within five years after the first refund  
 10 under this subsection with respect to the facility, the facility loses its  
 11 eligibility and the owner forfeits all refunds already received under this  
 12 subsection. Upon forfeiture, the owner is liable for tax under this  
 13 Article equal to the amount of all past taxes refunded under this  
 14 subsection, plus interest at the rate established in G.S. 105-241.1(i),  
 15 computed from the date each refund was issued. The tax and interest  
 16 are due 30 days after the date of the forfeiture. A person that fails to  
 17 pay the tax and interest is subject to the penalties provided in  
 18 G.S. 105-236.  
 19 (5) Sunset. This subsection is repealed for sales made on or after January  
 20 1, ~~2010~~2013."

21 **SECTION 3.2.** The changes made to G.S. 105-164.14(j)(2)b. by Section 3.1  
 22 of this act become effective January 1, 2005, and apply to sales made on or after that  
 23 date. The remainder of this part becomes effective July 1, 2006, and applies to  
 24 purchases made on or after that date.  
 25

26 **PART IV. EFFECTIVE DATE**

27 **SECTION 4.** Except as otherwise provided, this act is effective when it  
 28 becomes law.