

**§ 143B-437.01. Industrial Development Fund Utility Account.**

(a) Creation and Purpose of Fund. – There is created in the Department of Commerce a special account to be known as the Industrial Development Fund Utility Account ("Utility Account") to provide funds to assist the local government units of the most economically distressed counties in the State in creating jobs. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the account:

- (1) The funds shall be used for construction of or improvements to new or existing water, sewer, gas, telecommunications, high-speed broadband, electrical utility distribution lines or equipment, or transportation infrastructure for existing or new or proposed buildings. To be eligible for funding, the water, gas, telecommunications, high-speed broadband, electrical utility lines or facilities, or transportation infrastructure shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the job creation activity. To be eligible for funding, the sewer infrastructure shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the job creation activity, even if the sewer infrastructure is located in a county other than the county in which the building is located.
- (1a) The funds shall be used for projects located in economically distressed counties except that the Secretary of Commerce may use up to one hundred thousand dollars (\$100,000) to provide emergency economic development assistance in any county that is documented to be experiencing a major economic dislocation.
- (2) The funds shall be used by the city and county governments for projects that are reasonably anticipated to result in the creation of new jobs. There shall be no maximum funding amount per new job to be created or per project.
- (3) There shall be no local match requirement if the project is located in a county that has one of the 25 highest rankings under G.S. 143B-437.08.
- (4) The Department may authorize a local government that receives funds under this section to use up to two percent (2%) of the funds, if necessary, to verify that the funds are used only in accordance with law and to otherwise administer the grant or loan.
- (5) No project subject to the Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, shall be funded unless the Secretary of Commerce finds that the proposed project will not have a significant adverse effect on the environment. The Secretary of Commerce shall not make this finding unless the Secretary has first received a certification from the Department of Environmental Quality that concludes, after consideration of avoidance and mitigation measures, that the proposed project will not have a significant adverse effect on the environment.
- (6) The funds shall not be used for any retail, entertainment, or sports projects. The funds shall not be used for any nonmanufacturing project that does not meet the wage standard for the development tier area or zone in which the project is located. There is no wage standard for a development tier one area. If an urban progress zone or an agrarian growth zone is not in a development tier one area, then the wage standard for that zone is an average weekly wage that is at least equal to ninety percent (90%) of the lesser of the average wage for all insured private employers in the State and the average wage for all insured private employers in the county in which the project is located. The

wage standard for a development tier two area or a development tier three area is an average weekly wage that is at least equal to one hundred ten percent (110%) of the lesser of the average wage for all insured private employers in the State and ninety percent (90%) of the average wage for all insured private employers in the county in which the project is located.

- (7) Priority for the use of funds shall be given to eligible industries.
- (a1) Definitions. – The following definitions apply in this section:
  - (1) Air courier services. – The furnishing of air delivery of individually addressed letters and packages for compensation, in interstate commerce, except by the United States Postal Service.
  - (2) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.
  - (2a) Company headquarters. – A corporate, subsidiary, or regional managing office, as defined by NAICS in United States industry 551114, that is responsible for strategic or organizational planning and decision making for the business on an international, national, or multistate regional basis.
  - (3) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.
  - (4) Economically distressed county. – A county that is defined as a development tier one or two area under G.S. 143B-437.08.
  - (5) Eligible industry. – A company headquarters or a person engaged in the business of air courier services, information technology and services, manufacturing, or warehousing and wholesale trade.
  - (6) Information technology and services. – An industry in one of the following, as defined by NAICS:
    - a. Data processing industry group 518.
    - b. Software publishers industry group 5112.
    - c. Computer systems design and related services industry group 5415.
    - d. An Internet activity included in industry group 519130.
  - (7) Major economic dislocation. – The actual or imminent loss of 500 or more manufacturing jobs in the county or of a number of manufacturing jobs equal to at least ten percent (10%) of the existing manufacturing workforce in the county.
  - (8) Manufacturing. – An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries.
  - (9) Reserved.
  - (10) Warehousing. – An industry in warehousing and storage subsector 493 as defined by NAICS.
  - (11) Wholesale trade. – An industry in wholesale trade sector 42 as defined by NAICS.
- (b) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.5.
- (b1) Repealed by Session Laws 2013-360, s. 15.18(a), effective July 1, 2013, and applicable to projects for which funds are initially provided on or after July 1, 2013.
- (c), (c1) Repealed by Session Laws 2012-142, s. 13.4(c), effective July 1, 2012.
- (d) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.5. (1989, c. 751, s. 9(c); c. 754, s. 54; 1991 (Reg. Sess., 1992), c. 959, s. 60; 1993, c. 444, s. 1; 1996, 2nd Ex. Sess., c. 13, s. 3.5; 1997-456, s. 27; 1998-55, s. 6; 1999-360, s. 17; 2000-56, s. 3(b); 2002-172, ss. 2.2(a), (b); 2003-416, s. 2; 2005-276, s. 13.5; 2006-252, s. 2.4; 2007-323, s. 13.18(i); 2009-523, s. 1(a)-(c); 2010-31, s. 14.9; 2012-74, s. 4; 2012-142, s. 13.4(c); 2013-360, s. 15.18(a); 2015-241, s. 14.30(u); 2016-5, s. 5.5(c); 2017-102, s. 44; 2018-5, s. 15.2(b).)