

## **North Carolina Department of Commerce**

*Clawback Report- October 1, 2011*

This report is made to the Revenue Laws Study Committee, pursuant to N.C. Gen. Stat. § 143B-435.1(d).

<b>Citation of Law or Resolution:</b>	2007-515, s.6
<b>Section Number:</b>	Section 143B-435.1
<b>Due Date:</b>	October 1, 2011
<b>Submission Date:</b>	September 22, 2011

### **Receiving Entities:**

The Revenues Laws Study Committee  
The Joint Legislative Commission on Governmental Operations  
The Fiscal Research Division

### **Submitting Entity:**

North Carolina Department of Commerce

**NORTH CAROLINA  
DEPARTMENT OF COMMERCE**



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The following provides information on clawbacks in various programs administered by the Dept. of Commerce.

PROGRAM	COMPANY	TOTAL AMT TO BE REPAID	AMT REPAID	Date Recovered	AMT TO BE REPAID	TRIGGERING EVENT
One NC <sup>i</sup>	AmeriKart (NC) Corp	\$11,616.00	\$11,616.06	7/27/2010	\$0.00	Local match not completed.
One NC	IWCO	\$93,750.00	\$93,749.94	Final payment 5/21/11	\$0.00 (.06 forgiven)	Facility closed.
One NC	Menlo Logistics	\$15,000.00	\$15,000.00	5/27/2010	\$0.00	Facility closed.
One NC	Philip Morris USA	\$750,000.00	\$750,000.00	7/5/2007	\$0.00	Facility closed.
One NC	Pulte Mortgage	\$55,000.00	\$55,000.00	10/6/2008	\$0.00	Facility closed.
JDIG <sup>ii</sup>	Brunswick Corporation	\$83,524.00	\$83,524.00	4/23/2009	\$0.00	Facility closed.
JDIG	Chris-Craft Corporation	\$54,212.00	\$31,623.70	Next Qtrly pytmt due 12/1/11	\$22,588.30	Termination of project activities
JDIG	Dell Products LP	\$1,512,000.00	\$1,512,00.00	11/16/09	\$0.00	Termination of project activities
JDIG	General Electric Company II	\$411,692.00	\$411,692.00	5/30/2010	\$0.00	Termination of grant.
JDIG	Headway Corporation	\$50,175.00	\$50,175.00	Final payment 10/29/2010	\$0.00	Termination of project activities
JDIG	ITG Automotive Safety Textiles, LLC (Narricot Industries)	\$13,780.00	\$13,780.00	9/1/2010	\$0.00	Termination of project activities.
JDIG	Novo Nordisk	\$129,750.00	\$129,750.00	8/12/10	\$0.00	Reduced hiring need.
JDIG	Volvo Construction Equipment	\$69,247.00	\$69,247.00	1/4/2010	\$0.00	Termination of project activities.
Green Business Fund <sup>iii</sup>	Evans Environmental Energies, Inc.	\$15,540.42	\$15,540.42	10/28/09	\$0.00	Project terminated due to industrial accident & declining economy.

<sup>i</sup> The One North Carolina Fund statute requires that grant agreements include, and grant agreements do include, the ability to recapture funds for a grantee's failure to comply with the agreement. *See N.C. Gen. Stat. §143B-437.72(b)(7)*. Section 2.7 of The Guidelines for One North Carolina, promulgated under the One NC Statute also requires that agreements contain recapture provisions for nonperformance.

<sup>ii</sup> Job Development Investment Grant Program. The ability to recapture funds for failing to maintain operations at the project location for at least 150% of the grant term is statutorily required to be, and is in fact, reflected in JDIG Agreements. This requirement is also reflected in Section 11.3 of the Criteria for Operation and Implementation of the Job Development Investment Grant Program.

<sup>iii</sup> The ability to recapture funds for performance failures is statutorily required to be, and is in fact, reflected in the N.C. Green Business Fund grant agreements and Program Guidelines. *See §143B-437.6(5)*.