



- 1 (6) The movement of jobs to other countries has had a severe impact on  
2 certain industrial counties in the Piedmont and some small  
3 communities in the rural areas of the State. The lack of replacement  
4 employment opportunities will limit the careers of displaced workers  
5 in these counties, even with retraining efforts. In many cases, the  
6 current Bill Lee Act economic distress determination does not take  
7 into account these situations on a timely basis.
- 8 (7) This act is designed to address these issues by making the following  
9 changes:
- 10 a. Retaining those parts of the William S. Lee Act that are  
11 beneficial and effective.
- 12 b. Replacing the remaining parts of the William S. Lee Act with a  
13 program designed to address the unique challenges raised by  
14 current economic trends.
- 15 c. Providing a superior method for identifying the areas of relative  
16 economic health versus distress.
- 17 d. Better targeting the State's economic development dollars to  
18 projects that would not otherwise locate or expand without an  
19 incentive.
- 20 e. Providing a performance management information system that  
21 will allow the State to continually assess and evaluate its  
22 economic development tools and adjust them to reflect ongoing  
23 changes in the economy.
- 24 (8) This act is necessary to stimulate the economy, facilitate economic  
25 recovery, and create new jobs in North Carolina. This act will promote  
26 the general welfare and confer, as its primary purpose and effect,  
27 benefits on citizens throughout the State through the creation of new  
28 jobs, an enlargement of the overall tax base, an expansion and  
29 diversification of the State's industrial base, and an increase in revenue  
30 to the State and its political subdivisions.

31 **SECTION 2.** G.S. 105-129.2A(a) reads as rewritten:

32 "(a) Sunset. – G.S. 105-129.9A is repealed effective for business activities that  
33 occur on or after January 1, 2006. Except as provided in subsection (a1) of this section,  
34 the remainder of this This Article is repealed effective for business activities that occur  
35 on or after January 1, ~~2006~~2004."

36 **SECTION 3.** Chapter 105 of the General Statutes is amended by adding a  
37 new Article 3F entitled "Research and Development."

38 **SECTION 4.(a)** The following statutes in Article 3 of Chapter 105 of the  
39 General Statutes are amended as follows:

- 40 (1) G.S. 105-129.3 is recodified as G.S. 143B-437.5.  
41 (2) G.S. 105-129.3A is recodified as G.S. 143B-437.6.  
42 (3) G.S. 105-129.10(a) is recodified as G.S. 105-129.55.  
43 (4) G.S. 105-129.10(b) is recodified as G.S. 105-129.56.  
44 (5) G.S. 105-129.10(c) is repealed.

1           **SECTION 4.(b)** The Revisor of Statutes is authorized to change  
2 cross-references to these provisions wherever they may be found in the General Statutes  
3 in order to reflect the recodification.

4           **SECTION 5.** Part 2B of Chapter 143B of the General Statutes, as amended  
5 by this act, reads as rewritten:

6           "Part 2B. Economic Development Definitions and Standards.

7           "**§ 143B-437.4. Reserved.**

8           "**§ 143B-437.5. Enterprise tier designation.**

9           (a) Tiers Defined. – An enterprise tier one area is a county whose enterprise  
10 factor is one of the 10 highest in the State. An enterprise tier two area is a county whose  
11 enterprise factor is one of the next 15 highest in the State. An enterprise tier three area is  
12 a county whose enterprise factor is one of the next 25 highest in the State. An enterprise  
13 tier four area is a county whose enterprise factor is one of the next 25 highest in the  
14 State. An enterprise tier five area is any area that is not in a lower-numbered enterprise  
15 tier.

16           (b) ~~Annual Designation Ranking.~~ – Each year, on or before December 31, the  
17 Secretary of Commerce shall assign to each county in the State an enterprise factor that  
18 is the sum of the following:

- 19           (1) The county's rank in a ranking of counties by average rate of  
20 unemployment from lowest to highest, for the ~~preceding three~~  
21 years-most recent 12-month period for which data are available.
- 22           (2) The county's rank in a ranking of counties by average per capita  
23 income from highest to lowest, for the preceding three years.
- 24           (3) The county's rank in a ranking of counties by percentage growth in  
25 population from highest to lowest.

26           (c) Annual Designation. – The Secretary of Commerce shall then rank all the  
27 counties within the State according to their enterprise factor from highest to lowest,  
28 identify all the areas of the State by enterprise tier, and publish this information. An  
29 enterprise tier designation is effective only for the calendar year following the  
30 designation.

31           ~~(b1)~~(d) Data. – In measuring rates of unemployment and per capita income, the  
32 Secretary shall use the latest available data published by a State or federal agency  
33 generally recognized as having expertise concerning the data. In measuring population  
34 and population growth, the Secretary shall use the most recent estimates of population  
35 certified by the State Planning Officer.

36           ~~(e)~~(e) Exception for Enterprise Tier One and Two Areas. – Notwithstanding the  
37 provisions of this section, a county designated as an enterprise tier one area or an  
38 enterprise tier two area may not be redesignated as a higher-numbered enterprise tier  
39 area until it has been in its enterprise tier area for at least two consecutive years.

40           ~~(d)~~(f) Exception for Two-County Industrial Park. – For the purpose of this  
41 ~~Article, Part,~~ an eligible two-county industrial park has the lower enterprise tier  
42 designation of the designations of the two counties in which it is located if it meets all  
43 of the following conditions:

- 1 (1) It is located in two contiguous counties, one of which has a lower  
2 enterprise tier designation than the other.
  - 3 (2) At least one-third of the park is located in the county with the lower  
4 tier designation.
  - 5 (3) It is owned by the two counties or a joint agency of the counties.
  - 6 (4) The county with the lower tier designation contributed at least the  
7 lesser of one-half of the cost of developing the park or a proportion of  
8 the cost of developing the park equal to the proportion of land in the  
9 park located in the county with the lower tier designation.
- 10 (e)(g) Exceptions for Certain Small Counties. – The following exceptions to the  
11 provisions of this section apply to small counties:
- 12 (1) A county that meets both of the conditions set out below is designated  
13 an enterprise tier one area:
    - 14 a. Its population is less than 12,000.
    - 15 b. More than sixteen percent (16%) of its population is below the  
16 federal poverty level according to the most recent federal  
17 decennial census.
  - 18 (2) A county that meets both of the conditions set out below has an  
19 enterprise tier designation one level below the designation it would  
20 otherwise have under subsection (a) of this section:
    - 21 a. Its population is less than 50,000.
    - 22 b. More than eighteen percent (18%) of its population is below the  
23 federal poverty level according to the most recent federal  
24 decennial census.
  - 25 (3) A county that has a population of less than 35,000 and that would  
26 otherwise be designated an enterprise tier four or five area under this  
27 section must be designated an enterprise tier three area.

28 **"§ 143B-437.6. Development zone designation.**

- 29 (a) Development Zone Defined. – A development zone is an area comprised of  
30 one or more contiguous census tracts, census block groups, or both in the most recent  
31 federal decennial census that meets all of the following conditions:
- 32 (1) Every census tract and census block group in the zone is located in  
33 whole or in part within the primary corporate limits of a city with a  
34 population of more than 5,000 according to the most recent annual  
35 population estimates certified by the State Planning Officer.
  - 36 (2) It has a population of 1,000 or more according to the most recent  
37 annual population estimates certified by the State Planning Officer.
  - 38 (3) More than twenty percent (20%) of its population is below the poverty  
39 level according to the most recent federal decennial census.
  - 40 (4) Every census tract and census block group in the zone meets at least  
41 one of the following conditions:
    - 42 a. More than ten percent (10%) of its population is below the  
43 poverty level according to the most recent federal decennial  
44 census.

1           b. It is immediately adjacent to another census tract or census  
2           block group that is in the same zone and has more than twenty  
3           percent (20%) of its population below the poverty level  
4           according to the most recent federal decennial census.

5           (5) None of the census tracts or census block groups in the zone is located  
6           in another development zone designated by the Secretary of  
7           Commerce.

8           (b) Designation. – Upon request of a ~~taxpayer~~person or a local government, the  
9           Secretary of Commerce shall designate whether an area is a development zone that  
10          meets the conditions of subsection (a) of this section. If the applicant is a ~~taxpayer,~~  
11          ~~it~~person, the applicant must notify each city in which part of the zone is located. A  
12          development zone designation is effective for 24 months following the designation. The  
13          Department of Commerce must publish annually a list of all development zones with a  
14          description of their boundaries.

15          (c) ~~Relationship With Enterprise Tiers.~~Effect of Designation. – For the purpose  
16          of the wage standard requirement of G.S. 105-129.4, the credit for investing in  
17          ~~machinery and equipment allowed in G.S. 105-129.9, and the credit for worker training~~  
18          ~~allowed in G.S. 105-129.11, a development zone is considered an enterprise tier one~~  
19          ~~area. For all other purposes, a development zone has the same enterprise tier designation~~  
20          ~~as the county in which it is located.~~provided in this Part, a development zone is  
21          ~~considered an enterprise tier one area.~~

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

- 26           (1) At least fifty percent (50%) of the parcel is located within the  
27           development zone.  
28           (2) The parcel was in existence and under common ownership prior to the  
29           most recent federal decennial census.  
30           (3) The parcel is a portion of land made up of one or more tracts or tax  
31           parcels of land that is surrounded by a continuous perimeter boundary.

32          "**§ 143B-437.7. Standards.**

33           (a) Purpose. – This section establishes various standards to be applied in the  
34           State's economic development efforts to assure that incentives are used only for  
35           high-quality jobs that are beneficial to the citizens of the State.

36           (b) Wage Standard. – No wage standard applies to activities in an enterprise tier  
37           one or two area. Activities in an enterprise tier three, four, or five area must meet the  
38           wage standard provided in this subsection.

39           Jobs meet the wage standard if they pay an average weekly wage that is at least  
40           equal to one hundred ten percent (110%) of the applicable average weekly wage for the  
41           county in which the jobs will be located, as computed by the Secretary of Commerce  
42           from data compiled by the Employment Security Commission for the most recent period  
43           for which data are available. The applicable average weekly wage is the lowest of the  
44           following: (i) the average wage for all insured private employers in the county, (ii) the

1 average wage for all insured private employers in the State, and (iii) the average wage  
2 for all insured private employers in the county multiplied by the county income/wage  
3 adjustment factor. The county income/wage adjustment factor is the county  
4 income/wage ratio divided by the State income/wage ratio. The county income/wage  
5 ratio is average per capita income in the county divided by the annualized average wage  
6 for all insured private employers in the county. The State income/wage ratio is the  
7 average per capita income in the State divided by the annualized average wage for all  
8 insured private employers in the State.

9 The Department of Commerce must annually publish the wage standard for each  
10 county.

11 (c) Health Insurance Standard. – A project meets the health insurance standard if  
12 the employer provides health insurance for all of the full-time positions at the project  
13 location at the time an incentive is granted and during every year the incentive  
14 continues. For the purposes of this subsection, an employer provides health insurance if  
15 it pays at least fifty percent (50%) of the premiums for health care coverage that equals  
16 or exceeds the minimum provisions of the basic health care plan of coverage  
17 recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

18 (d) Environmental Impact Standard. – A project meets the environmental impact  
19 standard only if the applicant for an incentive certifies that, at the time of the  
20 application, the applicant has no pending administrative, civil, or criminal enforcement  
21 action based on alleged significant violations of any program implemented by an agency  
22 of the Department of Environment and Natural Resources, and has had no final  
23 determination of responsibility for any significant administrative, civil, or criminal  
24 violation of any program implemented by an agency of the Department of Environment  
25 and Natural Resources within the last five years. A significant violation is a violation or  
26 alleged violation that does not satisfy any of the conditions of G.S. 143-215.6B(d). The  
27 Secretary of Environment and Natural Resources must notify the Department of  
28 Revenue and the Department of Commerce annually of every person that currently has  
29 any of these pending actions and every person that has had any of these final  
30 determinations within the last five years.

31 (e) Safety and Health Programs Standard. – A project meets the safety and health  
32 programs standard only if the applicant for an incentive certifies that, at the time of the  
33 application, at the business location with respect to which the incentive is claimed, the  
34 applicant has no citations under the Occupational Safety and Health Act that have  
35 become a final order within the past three years for willful serious violations or for  
36 failing to abate serious violations. For the purposes of this subsection, 'serious violation'  
37 has the same meaning as in G.S. 95-127. The Commissioner of Labor must notify the  
38 Department of Revenue and the Department of Commerce annually of all employers  
39 who have had these citations become final orders within the past three years.

40 (f) Overdue Tax Debts. – An applicant is not eligible for an economic  
41 development incentive if, at the time of the application or at the time the applicant  
42 claims an installment of the incentive, the applicant has received a notice of an overdue  
43 tax debt and that overdue tax debt has not been satisfied or otherwise resolved."

1           **SECTION 6.** Article 10 of Chapter 143B of the General Statutes is amended  
2 by adding a new Part to read:

3           "Part 2G. William S. Lee Quality Jobs Investment Grants.

4 **"§ 143B-437.70. Definitions.**

5           Except as otherwise provided in this section, the definitions in Part 2B of this Article  
6 and in G.S. 143B-437.51 apply in this Part. The following definitions apply in this Part:

7           (1) Agreement. – A Bill Lee agreement entered into under this Part.

8           (2) Committee. – The Bill Lee Committee created in this Part.

9 **"§ 143B-437.71. Legislative findings and purpose.**

10          The General Assembly finds that:

11          (1) It is the policy of the State of North Carolina to stimulate economic  
12 activity and to create new jobs for the citizens of the State by  
13 encouraging and promoting the expansion of existing business and  
14 industry within the State and by recruiting and attracting new business  
15 and industry to the State.

16          (2) It is the purpose of this Part to carry out this policy by using State  
17 economic development resources to secure location and expansion of  
18 quality projects in the areas of the State in most need, whether due to  
19 chronic economic problems or sudden and severe dislocation.

20          (3) It is not the intent of the General Assembly that grants provided  
21 through this Part be used as venture capital funds, business incubator  
22 funds, or business start-up funds, or to otherwise fund the initial  
23 capitalization needs of new businesses.

24          (4) Nothing in this Part constitutes a guarantee or an assumption by the  
25 State of any debt of any business or an authorization of a pledge of the  
26 taxing power or the full faith and credit of the State.

27 **"§ 143B-437.72. Quality Jobs Investment Grant Program.**

28          (a) Creation and Purpose. – There is established in the Department of Commerce  
29 the William S. Lee Quality Jobs Investment Grant Program to be administered by the  
30 Bill Lee Committee created in this Part. In order to foster job creation and investment in  
31 the economy of this State, the Committee may enter into negotiated agreements with  
32 businesses to provide grants in accordance with the provisions of this Part and may  
33 provide funding to local nonprofit or governmental economic development  
34 organizations for infrastructure and worker training projects. The purpose of this Part is  
35 to provide a more effective and efficient replacement for the tax credit incentives  
36 repealed effective January 1, 2004. The replacement must be targeted to the areas of the  
37 State most in need of incentives, as determined by the Committee.

38          (b) Evaluating Economic Distress. – This Part must be administered and  
39 interpreted in light of its purpose to bring healthy economic development to those areas  
40 of the State with the greatest economic needs. In determining the level of economic  
41 distress of an area, the Bill Lee Committee must initially evaluate the enterprise tier  
42 areas and development zones designated under Part 2B of this Article. For the purpose  
43 of applying the standards and requirements of this Part, a development zone is  
44 considered a tier one enterprise area.

1        The Committee may further determine the level of economic distress of an area by  
 2 examining any relevant factors based on reliable data available for a census tract or  
 3 larger geographic area, including the following: sudden or severe dislocation or job loss,  
 4 workforce skills and educational attainment, infrastructure and other local resources,  
 5 and ad valorem tax base.

6        (c) Criteria. – The Committee, in consultation with the Attorney General, must  
 7 develop criteria to be used with respect to grants to businesses in determining whether  
 8 the conditions of this Part are satisfied and whether the project described in the  
 9 application is otherwise consistent with the purposes of this Part. Before entering into an  
 10 agreement, the Committee must find that all the following conditions are met:

- 11            (1) The location or expansion of the business will create net new jobs by  
 12 the business and is expected to increase the size of the economic pie on  
 13 a statewide basis.
- 14            (2) The proposed project will directly benefit and create opportunities in  
 15 an area of the State that the Committee identifies as experiencing high  
 16 unemployment, severe job losses, persistent blight, or other economic  
 17 problems as compared to other areas of the State.
- 18            (3) The total benefits of the project to the State outweigh its costs and  
 19 render the grant appropriate for the project.

20        (d) Ceilings. – The maximum amount of total annual liability for grants for  
 21 agreements entered into in any single calendar year may not exceed twenty-nine million  
 22 dollars (\$29,000,000). No agreement may be entered into that, when considered  
 23 together with other existing agreements entered into during that calendar year, could  
 24 cause the State's potential total annual liability for grants entered into in that calendar  
 25 year to exceed this amount. Within this ceiling, the following total annual maximums  
 26 apply based on the location of the projects for which grants are made:

<u>Tier</u>	<u>Maximum</u>
<u>1 &amp; 2</u>	<u>none</u>
<u>3</u>	<u>\$8,000,000</u>
<u>4</u>	<u>\$6,000,000</u>
<u>5</u>	<u>\$5,000,000</u>

32        In addition, within the twenty-nine million dollar (\$29,000,000) ceiling, up to five  
 33 million dollars (\$5,000,000) may be used for projects that would otherwise not qualify  
 34 based on the maximums provided in this subsection but that are located in areas of  
 35 especially severe economic distress as determined by the Committee in accordance with  
 36 subsection (b) of this section.

37        If the annual ceiling has not been reached in any year, the remaining capacity carries  
 38 over to the following year and, in the following year, is not subject to any maximum  
 39 based on location of the project.

40        (e) Performance Management Information System. – Before entering into any  
 41 agreements under this Part, the Committee must develop and implement a performance  
 42 management information system that includes at least the following elements:

- 43            (1) Establishing goals of the program.

- (2) Outlining each stage of the procedure for carrying out the goals of the program.
- (3) Identifying all information necessary for decision making at each stage to achieve the program goals.
- (4) Developing methods to collect and process comprehensive data to provide relevant, accurate information on a timely basis and in a useable form.
- (5) Establishing performance measures for predictive assessment and post decision review.
- (6) Setting a schedule for periodically measuring, analyzing, and reporting performance of the program.

**"§ 143B-437.73. Eligible projects.**

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

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

A project that consists of a professional or semiprofessional sports team or club is not eligible for a grant under this Part.

(c) Health Insurance. – A business is eligible for a grant under this Part only if the business meets the health insurance standard established in Part 2B of this Article for all of the full-time employees of the project with respect to which the grant is made. Each year that a business receives a grant under this Part, the business must provide with the submission required under G.S. 143B-437.78 a certification that the business continues to meet the health insurance standard for all full-time employees of the project with respect to which the grant is made. If the business ceases to meet the health insurance standard for all full-time employees of the project with respect to which a grant is made, the Committee must amend or terminate the agreement as provided in G.S. 143B-437.79.

1       (d) Wage Standard. – In order for a business to be eligible for a grant under this  
2 Part, the average wage of all jobs at the location with respect to which a grant is made  
3 must meet the applicable wage standard set out in Part 2B of this Article. If a project is  
4 to be located at more than one location, the average wage of all jobs at a location must  
5 meet the applicable wage standard in order for that location to be included in the  
6 agreement.

7       (e) Living Wage Standard. – In order for a business to be eligible for a grant  
8 under this Part, each eligible position must meet the living wage standard. A position  
9 meets the living wage standard if it pays a wage that on an annual basis exceeds two  
10 times the federal poverty level for a family of two, based on the federal poverty  
11 guidelines established by the United States Department of Health and Human Services,  
12 as revised each April 1. The Committee may waive this requirement in enterprise tier  
13 one and two areas and in areas of especially severe economic distress as determined by  
14 the Committee based on objective factors as provided in G.S. 143B-437.72(b).

15       (e) Safety and Health Programs. – In order for a business to be eligible for a  
16 grant under this Part, the business must meet the safety and health programs standard  
17 provided in Part 2B of this Article.

18       (f) Environmental Impact. – In order for a business to be eligible for a grant  
19 under this Part, the business must meet the environmental impact standard provided in  
20 Part 2B of this Article.

21       (g) First Source Hiring. – In order for a business to be eligible for a grant under  
22 this Part, the business must have entered into a first source hiring contract to utilize the  
23 State employment security commission and any cooperating local agency as its first  
24 source for recruitment and referral of applicants for new and replacement employment.  
25 Under the contract, the business must allow the agency three days to refer applicants.  
26 Upon request of the business in the case of an emergency, the agency may waive the  
27 three-day period. Under the contract, the business must interview and consider qualified  
28 candidates referred by the agency before interviewing other candidates. The term of the  
29 first source contract must be at least as long as the term of the grant agreement under  
30 this Part. The Committee may waive this requirement for projects in enterprise tier one  
31 and two areas and in areas of especially severe economic distress, as determined by the  
32 Committee based on objective factors as provided in G.S. 143B-437.72(b).

33 **"§ 143B-437.74. Bill Lee Committee established.**

34       (a) Membership. – The Bill Lee Committee is established. The Committee  
35 consists of the following members:

36           (1) The Secretary of Commerce.

37           (2) The Secretary of Revenue.

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

39           (4) Three members appointed by the General Assembly upon the  
40 recommendation of the Speaker of the House of Representatives.

41           (5) Three members appointed by the General Assembly upon the  
42 recommendation of the President Pro Tempore of the Senate.

1       The members of the Committee appointed by the General Assembly may not be  
2 members of the General Assembly. The members of the Committee appointed by the  
3 General Assembly serve two-year terms that begin upon appointment.

4       (b) Decision Required. – The Committee may act only upon a vote of five or  
5 more of its nine members.

6       (c) Conflict of Interest. – It is unlawful for a former member of the Committee  
7 to, within two years after the end of service on the Committee, provide services for  
8 compensation, as an employee, consultant, or otherwise, to any business or a related  
9 member of the business that was awarded a grant under this Part while the former  
10 member was serving on the Committee. Violation of this subsection is a Class 1  
11 misdemeanor. In addition to the penalties imposed under G.S. 15A-1340.23, the court  
12 must also make a finding as to what compensation was received by the defendant for  
13 services in violation of this section and must order the defendant to forfeit that  
14 compensation.

15       If a person is convicted under this section, the person shall not provide services for  
16 compensation, as an employee, consultant, or otherwise, to any business or a related  
17 member of the business that was awarded a grant under this Part while the former  
18 member was serving on the Committee until two years after the person's conviction  
19 under this section.

20       (d) Public Notice. – The Committee must do both of the following at least 20  
21 business days before the effective date of any criteria or amendments to criteria:

22           (1) Publish the proposed criteria on the Department of Commerce's web  
23 site.

24           (2) Provide notice to persons who have requested notice of proposed  
25 criteria.

26       In addition, the Committee must accept oral and written comments on the proposed  
27 criteria during the 15 business days beginning on the first day that the Committee has  
28 completed the notifications required by subdivisions (1) and (2) of this subsection.

29       (e) 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 and any applicable provisions of the General  
33 Statutes protecting confidential information.

34 **"§ 143B-437.75. Applications; fees; reports; study.**

35       (a) Preapplication. – The Committee may develop a procedure to require a  
36 business to submit a pre-application before applying for a grant under this Article. The  
37 preapplication must be in the form prescribed by the Committee and must include all  
38 information required by the Committee to make an initial screening determination of  
39 whether the project is eligible under this Article and to make any other initial  
40 determinations it considers useful to evaluate potential applicants. The Committee may  
41 impose a preapplication fee not to exceed one hundred dollars (\$100.00).

42       (b) Application. – To apply for a grant under this Article, a business must submit  
43 an application, under oath, to the Committee on a form prescribed by the Committee  
44 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 and the salaries for these positions.
- 12          (5)   An estimate of the total withholdings.
- 13          (6)   Certification that the business will provide health insurance to all  
14          full-time employees of the project.
- 15          (7)   Information concerning other locations, including locations in other  
16          states and countries, being considered for the project and the nature of  
17          any benefits that would accrue to the business if the project were to be  
18          located in one of those locations.
- 19          (8)   Information concerning any other State or local government incentives  
20          for which the business is applying or that it has an expectation of  
21          receiving.
- 22          (9)   Any other information necessary for the Committee to evaluate the  
23          application.

24          (c)   Application Fee. – When filing an application under this section, the business  
25          must pay the Committee a fee of five thousand dollars (\$5,000). The fee is due at the  
26          time the application is filed. The Secretary of Commerce, the Secretary of Revenue, and  
27          the Director of the Office of State Budget and Management shall determine the  
28          allocation of the fee imposed by this section among their agencies. The proceeds of the  
29          fee are receipts of the agency to which they are credited to offset the costs of evaluating  
30          applications and administering this Article. The Committee may waive or refund all or  
31          part of this fee in its discretion for a project in enterprise tier one or two or in an area of  
32          severe economic distress, as determined by the Committee based on objective factors as  
33          provided in G.S. 143B-437.72(b).

34          (d)   Annual Reports. – The Committee must publish a report on the William S.  
35          Lee Quality Jobs Investment Grant Program on or before April 30 of each year. The  
36          report must include the following:

- 37           (1)   A listing of each Bill Lee agreement negotiated and entered into during  
38           the preceding calendar year, including the name of the business, the  
39           cost/benefit analysis conducted by the Committee during the  
40           application process, a description of the project, the term of the  
41           agreement, the percentage used to determine the amount of the grant,  
42           and the amount of the grant made under the agreement during that  
43           year.

- 1           (2)   An update on the status of projects under agreements entered into  
2           before the preceding calendar year.
- 3           (3)   The number and enterprise tier area of eligible positions created by  
4           projects with respect to which grants were awarded.
- 5           (4)   The wage levels of all eligible positions created by projects with  
6           respect to which grants are awarded, aggregated and listed in  
7           increments of five thousand dollars (\$5,000).
- 8           (5)   The amount of new income tax revenue received from withholdings  
9           related to the projects for which grants were awarded.
- 10          (6)   The criteria developed by the Committee, in consultation with the  
11          Attorney General, to implement this Part and any changes in those  
12          criteria from the previous calendar year.
- 13          (7)   The effectiveness of the program in recruiting new and expanding  
14          businesses.
- 15          (8)   The environmental impact of businesses that have received grants  
16          under the program.
- 17          (9)   The geographic distribution of grants, by number and amount, awarded  
18          under the program.
- 19          (10) An explanation of whether the projects with respect to which  
20          agreements are entered into involve new businesses in the State or  
21          expanding existing businesses in the State.
- 22          (11) A listing of all businesses making an application under this Part and an  
23          explanation of whether each business ultimately located the project in  
24          this State regardless of whether the business was awarded a grant for  
25          the project under this Part.
- 26          (12) The division and use of fees collected by the Committee under this  
27          section and under G.S. 143B-437.78.

28          (e)   Quarterly Reports. – The Committee must publish a report on the William S.  
29          Lee Quality Jobs Investment Grant Program within two months of the end of each  
30          quarter. This report must include a listing of each Bill Lee agreement negotiated and  
31          entered into during the preceding quarter, including the name of the business, the  
32          cost/benefit analysis conducted by the Committee during the application process, a  
33          description of the project, and the amount of the grant expected to be made under the  
34          agreement during the current fiscal year.

35          (f)   Cooperation. – The Committee must provide the Speaker of the House of  
36          Representatives, the President Pro Tempore of the Senate, and the chairs of the House  
37          and Senate Committees on Finance and on Appropriations a monthly list describing the  
38          projects currently under consideration for a grant and a copy of detailed minutes of any  
39          meetings the Committee held in executive session.

40          (g)   Study. – The Committee must conduct a study to determine the minimum  
41          funding level required to implement the William S. Lee Quality Jobs Investment Grant  
42          Program successfully. The Committee must report the results of this study to the House  
43          of Representatives Finance Committee, the Senate Finance Committee, the House of  
44          Representatives Appropriations Subcommittee on Natural and Economic Resources, the

1 Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal  
2 Research Division no later than March 1 of each year.

3 **"§ 143B-437.76. Calculation of minimum and maximum grants; factors**  
4 **considered.**

5 (a) Percentage of Withholding. – Subject to the limitations of subsection (d) of  
6 this section, the amount of the grant awarded in each case shall be a percentage of the  
7 withholdings of eligible positions. The percentage shall be no less than ten percent  
8 (10%) and no more than seventy-five percent (75%) of the withholdings of the eligible  
9 positions for a period of years. The percentage used to determine the amount of the  
10 grant shall be based on criteria developed by the Committee, in consultation with the  
11 Attorney General, after considering at least the following:

- 12 (1) The number of eligible positions to be created.
- 13 (2) The expected duration of those positions.
- 14 (3) The type of contribution the business can make to the long-term  
15 growth of the State's economy.
- 16 (4) The amount of other financial assistance the project will receive from  
17 the State or local governments.
- 18 (5) The total dollar investment the business is making in the project.
- 19 (6) Whether the project utilizes existing infrastructure and resources in the  
20 community.
- 21 (7) Whether the project is located in a development zone.
- 22 (8) The number of eligible positions that would be filled by residents of a  
23 development zone.
- 24 (9) The extent to which the project will mitigate unemployment in the  
25 State and locality.

26 (b) Term. – The term of the grant shall not exceed 12 years starting with the first  
27 year a grant is made.

28 (c) Positions. – The grant may be based only on eligible positions created during  
29 the base years, unless the Committee makes an explicit determination that the grant will  
30 also be based on additional eligible positions created during the remainder of the term of  
31 the grant.

32 (d) Reduction in Tier Four and Five. – The percentage established in the  
33 agreement shall be reduced by one-fourth for any eligible position that is located in an  
34 enterprise tier four or five area.

35 (e) Combination With Other Grants. – A business that is receiving any other  
36 grant by operation of State law may not receive an amount as a grant pursuant to this  
37 Part that, when combined with any other grants, exceeds seventy-five percent (75%) of  
38 the withholdings of the business.

39 (f) Per Position Caps. – The amount of a grant associated with any specific  
40 eligible position may not exceed six thousand five hundred dollars (\$6,500) in any year.  
41 In addition, the maximum amount provided under an agreement may not exceed thirty  
42 thousand dollars (\$30,000) per eligible position over the life of the agreement.

43 **"§ 143B-437.77. Bill Lee agreement.**

44 (a) Terms. – Each Bill Lee agreement must include at least the following:

- 1           (1)    A detailed description of the proposed project that will result in job  
2                    creation and the number of new employees to be hired in the base  
3                    years and later years.
- 4           (2)    The term of the grant and the criteria used to determine the first year  
5                    for which the grant may be claimed.
- 6           (3)    The number of eligible positions that are subjects of the grant and a  
7                    description of those positions and the location of those positions.
- 8           (4)    The amount of the grant based on a percentage of withholdings.
- 9           (5)    A method for determining the number of new employees hired during  
10                   a grant year.
- 11          (6)    A method for the business to report annually to the Committee the  
12                   number of eligible positions for which the grant is to be made.
- 13          (7)    A requirement that the business report to the Committee annually the  
14                   aggregate amount of withholdings during the grant year.
- 15          (8)    A provision permitting an audit of the payroll records of the business  
16                   by the Committee from time to time as the Committee considers  
17                   necessary.
- 18          (9)    A provision that requires the Committee to amend an agreement  
19                   pursuant to G.S. 143B-437.79.
- 20          (10)   A provision that requires the business to maintain operations at the  
21                   project location or another location approved by the Committee for at  
22                   least one hundred fifty percent (150%) of the term of the grant and a  
23                   provision to permit the Committee to recapture all or part of the grant  
24                   at its discretion if the business does not remain at the site for the  
25                   required term.
- 26          (11)   A provision that requires the business to maintain employment levels  
27                   in this State at the level of the year immediately preceding the base  
28                   years.
- 29          (12)   A provision establishing the conditions under which the grant  
30                   agreement may be terminated, in addition to those under G.S.  
31                   143B-437.79, and under which grant funds may be recaptured by the  
32                   Committee.
- 33          (13)   A provision stating that unless the agreement is amended or terminated  
34                   pursuant to G.S. 143B-437.79, the agreement is binding and  
35                   constitutes a continuing contractual obligation of the State and the  
36                   business.
- 37          (14)   A provision setting out any allowed variation in the terms of the  
38                   agreement that will not subject the business to amendment or  
39                   termination of the agreement under G.S. 143B-437.79.
- 40          (15)   A provision that prohibits the business from manipulating or  
41                   attempting to manipulate employee withholdings with the purpose of  
42                   increasing the amount of the grant and that requires the Committee to  
43                   terminate the agreement and take action to recapture grant funds if the  
44                   Committee finds that the business has manipulated or attempted to

1 manipulate withholdings with the purpose of increasing the amount of  
2 the grant.

3 (16) A provision requiring that the business engage in fair employment  
4 practices as required by State and federal law and a provision  
5 encouraging the business to use small contractors, minority  
6 contractors, physically handicapped contractors, and women  
7 contractors whenever practicable in the conduct of its business.

8 (17) A provision encouraging the business to hire North Carolina residents.

9 (18) A provision encouraging the business to use the North Carolina State  
10 Ports.

11 (19) A provision stating that the State is not obligated to make any annual  
12 grant payment unless and until the State has received withholdings  
13 from the business in an amount that exceeds the amount of the grant  
14 payment.

15 (20) A provision describing the manner in which the amount of a grant will  
16 be measured and administered to ensure compliance with the  
17 provisions of G.S. 143B-437.72(d).

18 (21) A provision stating that any recapture of a grant and any amendment to  
19 an agreement reducing the amount of the grant or the term of the  
20 agreement must, at a minimum, be proportional to the failure to  
21 comply measured relative to the condition or criterion with respect to  
22 which the failure occurred.

23 (22) A provision stating that any disputes over interpretation of the  
24 agreement must be submitted to binding arbitration.

25 (23) A provision stating that the business agrees to submit to an audit at any  
26 time that the Committee requires one.

27 (b) Approval of Attorney General. – The Attorney General must review the terms  
28 of all proposed agreements entered into by the Committee. To be effective against the  
29 State, an agreement entered into under this Part must be signed personally by the  
30 Attorney General.

31 **"§ 143B-437.78. Grant recipient to submit records.**

32 (a) No later than February 1 of each year, for the preceding grant year, every  
33 business that is awarded a grant under this Part must submit to the Committee a copy of  
34 its State and federal tax returns showing business and nonbusiness income and a report  
35 showing withholdings. Submission of this information is a condition of the business's  
36 continuation in the grant program. In addition, the business must submit to the  
37 Committee an annual payroll report showing the eligible positions that are created  
38 during the base years and the new eligible positions created during each subsequent year  
39 of the grant. When making a submission under this section, the business must pay the  
40 Committee a fee of one thousand five hundred dollars (\$1,500). The fee is due at the  
41 time the submission is made. The Secretary of Commerce, the Secretary of Revenue,  
42 and the Director of the Office of State Budget and Management shall determine the  
43 allocation of the fee imposed by this section among their agencies. The proceeds of the  
44 fee are receipts of the agency to which they are credited. The Committee may waive or

1 refund all or part of this fee in its discretion for a project in an enterprise tier one or two  
2 area in an area of severe economic distress, as determined by the Committee based on  
3 objective factors.

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

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

8 **"§ 143B-437.79. Failure to comply with agreement.**

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

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

21 (c) Notwithstanding the provisions of subsections (a) and (b) of this section, if  
22 the Committee finds that the business has manipulated or attempted to manipulate  
23 employee withholdings with the purpose of increasing the amount of a grant, the  
24 Committee must immediately terminate the agreement and take action to recapture any  
25 grant funds disbursed in any year in which the Committee finds the business  
26 manipulated or attempted to manipulate employee withholdings with the purpose of  
27 increasing the amount of the grant.

28 **"§ 143B-437.80. Disbursement of grant.**

29 A business may not receive an annual disbursement of a grant if, at the time of  
30 disbursement, the business has received a notice of an overdue tax debt and that overdue  
31 tax debt has not been satisfied or otherwise resolved. A business may receive an annual  
32 disbursement of a grant only after the Committee has certified to the State Controller  
33 that there are no outstanding overdue tax debts and that the business has met the terms  
34 and conditions of the agreement. No amount shall be disbursed to a business as a grant  
35 under this Part in any year until the Secretary of Revenue has certified to the Committee  
36 (i) that there are no outstanding overdue tax debts of the business and (ii) the amount of  
37 withholdings received in that year by the Department of Revenue from the business. A  
38 business that has met the terms of the agreement must make an annual certification of  
39 this to the Committee. The Committee must verify this information and certify to the  
40 State Controller that the terms of the agreement have been met. The Committee must  
41 further certify to the State Controller the amount of a grant for which the business is  
42 eligible under the agreement. The State Controller must remit a check to the business in  
43 the amount of the certified grant amount within 90 days of receiving the certification of  
44 the Committee.

1 **"§ 143B-437.81. Effective date and sunset.**

2 No grant funds may be disbursed under this Article before July 1, 2005. The  
3 authority of the Committee to enter into new agreements under this Part is repealed  
4 January 1, 2010."

5 **SECTION 7.** Article 3F of Chapter 105 of the General Statutes, as enacted  
6 by this act, reads as rewritten:

7 "Article 3F.

8 "Research and Development.

9 **"§ 105-129.50. Definitions.**

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

12 (1) through (3) Reserved.

13 (4) Qualified North Carolina research expenses. – Qualified research  
14 expenses for research performed in this State.

15 **"§ 105-129.51. Administration; sunset.**

16 (a) Administration. – A taxpayer is eligible for the credits allowed in this Article  
17 if it satisfies the requirements of G.S. 143B-437.6(b), (c), (d), and (e) relating to wage  
18 standard, health insurance, environmental impact, and safety and health programs,  
19 respectively. The three credits allowed in this Article are exclusive. A taxpayer may  
20 elect to take only one of the three credits with respect to its research activities in a  
21 taxable year. It may elect a different credit for expenses in a subsequent taxable year.

22 (b) Sunset. – This Article is repealed effective for research and development  
23 activities that occur on or after January 1, 2008.

24 **"§ 105-129.52. Tax election; cap.**

25 (a) Tax Election. – The credits allowed in this Article are allowed against the  
26 franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4  
27 of this Chapter. The taxpayer must elect the tax against which a credit will be claimed  
28 when filing the return on which the first installment of the credit is claimed. This  
29 election is binding. Any carryforwards of a credit must be claimed against the same tax.

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

37 **"§ 105-129.53. Substantiation.**

38 To claim a credit allowed by this Article, the taxpayer must provide any information  
39 required by the Secretary. Every taxpayer claiming a credit under this Article must  
40 maintain and make available for inspection by the Secretary any records the Secretary  
41 considers necessary to determine and verify the amount of the credit to which the  
42 taxpayer is entitled. The burden of proving eligibility for a credit and the amount of the  
43 credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to  
44 maintain adequate records or to make them available for inspection.

1 **"§ 105-129.54. Reports.**

2 The Department of Revenue must report to the Revenue Laws Study Committee and  
3 to the Fiscal Research Division of the General Assembly by May 1 of each year the  
4 following information for the 12-month period ending the preceding April 1:

- 5 (1) The number of taxpayers that claimed each credit allowed in this  
6 Article.  
7 (2) The amount of each credit claimed.  
8 (3) The total cost to the General Fund of the credits claimed.

9 **"§ 105-129.55. General ~~credit~~-credit for increasing research and development.**

10 A taxpayer that claims for the taxable year a federal income tax credit under section  
11 41(a) of the Code for increasing research activities is allowed a credit equal to five  
12 percent (5%) of the State's apportioned share of the taxpayer's expenditures for  
13 increasing research activities. The State's apportioned share of a taxpayer's expenditures  
14 for increasing research activities is the excess of the taxpayer's qualified research  
15 expenses for the taxable year over the base amount, as determined under section 41 of  
16 the Code, multiplied by a percentage equal to the ratio of the taxpayer's qualified North  
17 Carolina research expenses ~~in this State~~ for the taxable year to the taxpayer's total  
18 qualified research expenses for the taxable year.

19 **"§ 105-129.56. Alternative ~~credit~~-credit for increasing research and development.**

20 A taxpayer that claims the alternative incremental credit under section 41(c)(4) of  
21 the Code for increasing research activities is allowed a credit equal to twenty-five  
22 percent (25%) of the State's apportioned share of the federal credit claimed. The State's  
23 apportioned share of the federal credit claimed is the amount of the alternative  
24 incremental credit the taxpayer claimed under section 41(c)(4) of the Code for the  
25 taxable year multiplied by a percentage equal to the ratio of the taxpayer's qualified  
26 North Carolina research expenses ~~in this State~~ for the taxable year to the taxpayer's total  
27 qualified research expenses for the taxable year. For the purpose of this section, the  
28 amount of the alternative incremental credit claimed by a taxpayer is determined  
29 without regard to any reduction elected under section 280C(c) of the Code."

30 **SECTION 8.(a)** Grants from the One North Carolina - Industrial  
31 Recruitment Competitive Fund may be made only after the Department of Commerce  
32 has developed and implemented a performance management information system that  
33 includes at least the following elements:

- 34 (1) Establishing goals of the program.  
35 (2) Outlining each stage of the procedure for carrying out the goals of the  
36 program.  
37 (3) Identifying all information necessary for decision making at each stage  
38 to achieve the program goals.  
39 (4) Developing methods to collect and process comprehensive data to  
40 provide relevant, accurate information on a timely basis and in a  
41 useable form.  
42 (5) Establishing performance measures for predictive assessment and  
43 postdecision review.

- 1 (6) Setting a schedule for periodically measuring, analyzing, and reporting  
2 performance of the program.

3 **SECTION 8.(b)** With respect to the One North Carolina - Industrial  
4 Recruitment Competitive Fund, the Department of Commerce must provide the Speaker  
5 of the House of Representatives, the President Pro Tempore of the Senate, and the  
6 chairs of the House and Senate Committees on Finance and on Appropriations a  
7 monthly list describing the projects currently under consideration for a grant.

8 **SECTION 9.** G.S. 143B-437.52 is amended by adding a new subsection to  
9 read:

10 "(d) Performance Management Information System. – Before January 1, 2004, the  
11 Committee must develop and implement a performance management information  
12 system that includes at least the following elements:

- 13 (1) Establishing goals of the program.  
14 (2) Outlining each stage of the procedure for carrying out the goals of the  
15 program.  
16 (3) Identifying all information necessary for decision making at each stage  
17 to achieve the program goals.  
18 (4) Developing methods to collect and process comprehensive data to  
19 provide relevant, accurate information on a timely basis and in a  
20 useable form.  
21 (5) Establishing performance measures for predictive assessment and  
22 postdecision review.  
23 (6) Setting a schedule for periodically measuring, analyzing, and reporting  
24 performance of the program."

25 **SECTION 10.** G.S. 143B-437.53 is amended by adding the following new  
26 subsection to read:

27 "(f) First Source Hiring. – In order for a business to be eligible for a grant under  
28 this Part, the business must have entered into a first source hiring contract to utilize the  
29 State Employment Security Commission and any cooperating local agency as its first  
30 source for recruitment and referral of applicants for new and replacement employment.  
31 Under the contract, the business must allow the agency three days to refer applicants.  
32 Upon request of the business in the case of an emergency, the agency may waive the  
33 three-day period. Under the contract, the business must interview and consider qualified  
34 candidates referred by the agency before interviewing other candidates. The term of the  
35 first source contract must be at least as long as the term of the grant agreement under  
36 this Part. The Committee may waive this requirement for projects in enterprise tiers one  
37 and two and in areas of especially severe economic distress, as determined by the  
38 Committee."

39 **SECTION 11.** G.S. 143B-437.55 is amended by adding a new subsection to  
40 read:

41 "(d1) Cooperation. – The Committee must provide the Speaker of the House of  
42 Representatives, the President Pro Tempore of the Senate, and the chairs of the House  
43 and Senate Committees on Finance and on Appropriations a monthly list describing the

1 projects currently under consideration for a grant and a copy of detailed minutes of any  
2 meetings the Committee held in executive session."

3 **SECTION 12.** This act becomes effective October 1, 2003.