

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH70349-LY-153 (3/9)

Short Title: Clawback Failed Incentives. (Public)

Sponsors: Representatives Coates, Cole, and Luebke (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR PUBLICATION, MONITORING, AND REPORTING
ON ECONOMIC DEVELOPMENT INCENTIVE CLAWBACKS AND TO
PROVIDE FOR FIRST SOURCE HIRING AGREEMENTS FOR INCENTIVE
GRANTS AND LOANS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.6(b) reads as rewritten:

"(b) Reports. – The Department of Revenue shall publish by March 1 of each year the following information itemized by credit and by taxpayer for the 12-month period ending the preceding December 31:

- (1) The number of claims for each credit allowed in this Article.
- (2) The number and enterprise tier area of new jobs with respect to which credits were generated and to which credits were claimed.
- (3) The cost and enterprise tier area of machinery and equipment with respect to which credits were generated and to which credits were claimed.
- (4) The number of new jobs created by businesses located in development zones, and the percentage of jobs at those locations that were filled by residents of the zones.
- (5) The amount and enterprise tier area of worker training expenditures with respect to which credits were generated and to which credits were claimed.
- (6) The amount and enterprise tier area of new research and development expenditures with respect to which credits were generated and to which credits were claimed.

- 1 (7) The cost and enterprise tier area of real property investment with
2 respect to which credits were generated and to which credits were
3 claimed.
- 4 (8) The number and amount of credits forfeited under G.S. 105-129.4(d)
5 and the reason for the forfeiture.
- 6 (9) The number and amount of assessments for credits erroneously
7 claimed under this Article that are not included in subdivision (8) of
8 this subsection."

9 **SECTION 2.** Article 10 of Chapter 143B of the General Statutes is amended
10 by adding the following new sections to read:

11 **"§ 143B-435.1. Clawbacks.**

12 (a) Clawback Defined. – For the purpose of this Article, a clawback is a
13 requirement that all or part of an economic development incentive will be returned if the
14 recipient business does not fulfill its responsibilities under the incentive law, contract, or
15 both.

16 (b) Findings. – The General Assembly finds that in order for a clawback to be
17 effective, there must be monitoring and reporting regarding the business's performance
18 of its responsibilities and a mechanism for obtaining repayment if the clawback is
19 triggered. Clawback provisions are essential to protect the State's investment in a private
20 business and ensure that the public benefits from the incentive will be secured.

21 (c) Catalog. – The Department of Commerce shall catalog all clawbacks in State
22 and federal programs it administers, whether provided by statute, by rule, or under a
23 contract. The catalog must include a description of each clawback, the program to
24 which it applies, and a citation to its source. The Department shall publish the catalog
25 on its Web site and update it every six months.

26 (d) Report. – The Department of Commerce shall report to the Revenue Laws
27 Study Committee by April 1 and October 1 of each year on all clawbacks that have been
28 triggered under programs it administers and its progress on obtaining repayment. The
29 report must include the name of each business, the event that triggered the clawback,
30 and the amount to be repaid.

31 **"§ 143B-435.2. First source hiring.**

32 In order for a business to be eligible for a direct economic development grant or loan
33 under this Article for the purposes of job creation or from the One North Carolina
34 Industrial Recruitment Competitive Fund, the business must have entered into a first
35 source hiring contract to utilize the State Employment Security Commission and any
36 cooperating local agency as a first source for recruitment and referral of applicants for
37 new and replacement employment associated with the grant or loan. To meet the first
38 source hiring requirement under the contract, the business must allow the agency three
39 days to refer applicants. Upon request of the business in the case of an emergency, the
40 agency may waive the three-day period. Under the contract, the business must interview
41 and consider qualified candidates referred by the agency concurrently with interviewing
42 other candidates. The Secretary of Commerce may waive this requirement for projects
43 in enterprise tiers one and two and in areas of especially severe economic distress, as
44 determined by the Secretary."

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SECTION 3. This act is effective when it becomes law.