

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

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**SENATE BILL 2006\***

Short Title: Economic Development Program Modifications. (Public)

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Sponsors: Senator Hoyle.

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Referred to: Finance.

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May 26, 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 **SECTION 1.** G.S. 143B-437.51 reads as rewritten:

9 **"§ 143B-437.51. Definitions.**

10 The following definitions apply in this Part:

- 11 (1) Agreement. – A community economic development agreement under  
12 G.S. 143B-437.57.
- 13 (2) ~~Base years period.~~ – ~~The first 24 months following the date set by the~~  
14 ~~Committee for performance to begin under the agreement period of~~  
15 ~~time set by the Committee during which new employees are to be~~  
16 ~~hired for the positions on which the grant shall be based.~~
- 17 (3) Business. – A corporation, sole proprietorship, cooperative association,  
18 partnership, S corporation, limited liability company, nonprofit  
19 corporation, or other form of business organization, located either  
20 within or outside this State.
- 21 (4) Committee. – The Economic Investment Committee established  
22 pursuant to G.S. 143B-437.54.
- 23 (5) Eligible position. – A position created by a business and filled by a  
24 new full-time employee in this State during the base years ~~or in~~  
25 ~~subsequent years of a grant period.~~
- 26 (5a) Enterprise tier. – The classification assigned to an area pursuant to  
27 G.S. 105-129.3.
- 28 (6) Full-time employee. – A person who is employed for consideration for  
29 at least 35 hours a week, whose wages are subject to withholding

1 under Article 4A of Chapter 105 of the General Statutes, and who is  
2 determined by the Committee to be employed in a permanent position  
3 according to criteria it develops in consultation with the Attorney  
4 General. The term does not include any person who works as an  
5 independent contractor or on a consulting basis for the business.

- 6 (7) New employee. – A full-time employee who represents a net increase  
7 in the number of the business's employees statewide. ~~The term~~  
8 ~~includes an employee who previously filled an eligible position who is~~  
9 ~~rehired or called back from a layoff that occurs during or following the~~  
10 ~~base years to a vacant position previously held by that employee or to~~  
11 ~~a new position established during or following the base years.~~  
12 (8) Overdue tax debt. – Defined in G.S. 105-243.1.  
13 (9) Related member. – Defined in G.S. 105-130.7A.  
14 (10) Withholdings. – The amount withheld by a business from the wages of  
15 employees in eligible positions under Article 4A of Chapter 105 of the  
16 General Statutes."

17 **SECTION 2.** G.S. 143B-437.52 reads as rewritten:

18 **"§ 143B-437.52. Job Development Investment Grant Program.**

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

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

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

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

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

- 16 (1) The Committee makes an explicit finding that the designation is  
17 necessary to secure the project in this State.
- 18 (2) ~~The designation agreement~~ contains terms to ensure that the business  
19 does not create eligible positions by transferring or shifting to the  
20 project existing positions from another project of the business or a  
21 related member of the business."

22 **SECTION 3.** G.S. 143B-437.53(b) reads as rewritten:

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

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

35 **SECTION 4.** G.S. 143B-437.55 reads as rewritten:

36 "**§ 143B-437.55. Applications; fees; reports; study.**

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

- 39 (1) The name of the business, the proposed location of the project, and the  
40 type of activity in which the business will engage at the project site or  
41 sites.
- 42 (2) The names and addresses of the principals or management of the  
43 business, the nature of the business, and the form of business  
44 organization under which it is operated.

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

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

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

31 If a business applies for a grant on behalf of its related members, the related  
32 members included in the application may be permitted to meet the qualifications for a  
33 grant collectively by participating in a project that meets the requirements of this Part.  
34 The amount of a grant may be calculated under the terms of this Part as if the related  
35 members were all collectively one business entity. Any conditions for a grant, other  
36 than the number of eligible positions created, apply to each related member who is  
37 listed in the application as participating in the project. The grants awarded shall be paid  
38 to the applicant business. A grant received under this Part by a business may be  
39 apportioned to the related members in a manner determined by the business. In order for  
40 an agreement to be executed, each related member included in the application must sign  
41 the agreement and agree to abide by its terms.

42 (b) Application Fee. – When filing an application under this section, the business  
43 must pay the Committee a fee of five thousand dollars (\$5,000). The fee is due at the  
44 time the application is filed. ~~The Secretary of Commerce, the Secretary of Revenue, and~~

1 ~~the Director of the Office of State Budget and Management shall determine the~~  
2 ~~allocation of the fee imposed by this section among their agencies. The proceeds of the~~  
3 ~~fee are receipts of the agency to which they are credited. shall be credited to the General~~  
4 ~~Fund.~~

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

- 8 (1) A listing of each community economic development agreement  
9 negotiated and entered into during the preceding calendar year,  
10 including the name of the business, the cost/benefit analysis conducted  
11 by the Committee during the application process, a description of the  
12 project, the term of the agreement, the percentage used to determine  
13 the amount of the grant, and the amount of the grant made under the  
14 agreement during that year.
- 15 (2) An update on the status of projects under agreements entered into  
16 before the preceding calendar year.
- 17 (3) The number and enterprise tier area of eligible positions created by  
18 projects with respect to which grants were awarded.
- 19 (3a) A listing of the employment level for all businesses receiving a grant  
20 and any changes in those levels from the level of the next preceding  
21 year.
- 22 (4) The wage levels of all eligible positions created by projects with  
23 respect to which grants are awarded, aggregated and listed in  
24 increments of five thousand dollars (\$5,000).
- 25 (5) The amount of new income tax revenue received from withholdings  
26 related to the projects for which grants were awarded.
- 27 (6) The criteria developed by the Committee, in consultation with the  
28 Attorney General, to implement this Part and any changes in those  
29 criteria from the previous calendar year.
- 30 (7) The effectiveness of the program in recruiting new and expanding  
31 businesses.
- 32 (8) The environmental impact of businesses that have received grants  
33 under the program.
- 34 (9) The geographic distribution of grants, by number and amount, awarded  
35 under the program.
- 36 (10) An explanation of whether the projects with respect to which  
37 agreements are entered into involve new businesses in the State or  
38 expanding existing businesses in the State.
- 39 (11) A listing of all businesses making an application under this Part and an  
40 explanation of whether each business ultimately located the project in  
41 this State regardless of whether the business was awarded a grant for  
42 the project under this Part.
- 43 ~~(12) The division and use of fees collected by the Committee under this~~  
44 ~~section and under G.S. 143B-437.58.~~

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

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

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

17 **SECTION 5.** G.S. 143B-437.56 reads as rewritten:

18 **"§ 143B-437.56. Calculation of minimum and maximum grants; factors**  
19 **considered.**

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

- 27 (1) The number of eligible positions to be created.
- 28 (2) The expected duration of those positions.
- 29 (3) The type of contribution the business can make to the long-term  
30 growth of the State's economy.
- 31 (4) The amount of other financial assistance the project will receive from  
32 the State or local governments.
- 33 (5) The total dollar investment the business is making in the project.
- 34 (6) Whether the project utilizes existing infrastructure and resources in the  
35 community.
- 36 (7) Whether the project is located in a development zone.
- 37 (8) The number of eligible positions that would be filled by residents of a  
38 development zone.
- 39 (9) The extent to which the project will mitigate unemployment in the  
40 State and locality.

41 (b) The term of the grant shall not exceed 12 years starting with the first year a  
42 grant payment is made. The first grant payment must be made within six years after the  
43 date on which the grant was awarded.

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

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

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

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

21 **SECTION 6.** G.S. 143B-437.57(a) reads as rewritten:

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

- 24 (1) A detailed description of the proposed project that will result in job  
25 creation and the number of new employees to be hired ~~in~~ during the  
26 base years and later years period.
- 27 (2) The term of the grant and the criteria used to determine the first year  
28 for which the grant may be claimed.
- 29 (3) The number of eligible positions that are subjects of the grant and a  
30 description of those positions and the location of those positions.
- 31 (4) The amount of the grant based on a percentage of withholdings.
- 32 (5) A method for determining the number of new employees hired during  
33 a grant year.
- 34 (6) A method for the business to report annually to the Committee the  
35 number of eligible positions for which the grant is to be made.
- 36 (7) A requirement that the business report to the Committee annually the  
37 aggregate amount of withholdings during the grant year.
- 38 (8) A provision permitting an audit of the payroll records of the business  
39 by the Committee from time to time as the Committee considers  
40 necessary.
- 41 (9) A provision that requires the Committee to amend an agreement  
42 pursuant to G.S. 143B-437.59.
- 43 (10) A provision that requires the business to maintain operations at the  
44 project location or another location approved by the Committee for at

1 least one hundred fifty percent (150%) of the term of the grant and a  
2 provision to permit the Committee to recapture all or part of the grant  
3 at its discretion if the business does not remain at the site for the  
4 required term.

5 (11) A provision that requires the business to maintain employment levels  
6 in this State at the level of the year immediately preceding the base  
7 years-period.

8 (12) A provision establishing the conditions under which the grant  
9 agreement may be terminated, in addition to those under  
10 G.S. 143B-437.59, and under which grant funds may be recaptured by  
11 the Committee.

12 (13) A provision stating that unless the agreement is amended or terminated  
13 pursuant to G.S. 143B-437.59, the agreement is binding and  
14 constitutes a continuing contractual obligation of the State and the  
15 business.

16 (14) A provision setting out any allowed variation in the terms of the  
17 agreement that will not subject the business to amendment or  
18 termination of the agreement under G.S. 143B-437.59.

19 (15) A provision that prohibits the business from manipulating or  
20 attempting to manipulate employee withholdings with the purpose of  
21 increasing the amount of the grant and that requires the Committee to  
22 terminate the agreement and take action to recapture grant funds if the  
23 Committee finds that the business has manipulated or attempted to  
24 manipulate withholdings with the purpose of increasing the amount of  
25 the grant.

26 (16) A provision requiring that the business engage in fair employment  
27 practices as required by State and federal law and a provision  
28 encouraging the business to use small contractors, minority  
29 contractors, physically handicapped contractors, and women  
30 contractors whenever practicable in the conduct of its business.

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

32 (18) A provision encouraging the business to use the North Carolina State  
33 Ports.

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

38 (20) A provision describing the manner in which the amount of a grant will  
39 be measured and administered to ensure compliance with the  
40 provisions of G.S. 143B-437.52(c).

41 (21) A provision stating that any recapture of a grant and any amendment to  
42 an agreement reducing the amount of the grant or the term of the  
43 agreement must, at a minimum, be proportional to the failure to



1 comply measured relative to the condition or criterion with respect to  
2 which the failure occurred.

3 (22) A provision stating that any disputes over interpretation of the  
4 agreement shall be submitted to binding arbitration.

5 (23) A provision stating that the amount of a grant associated with any  
6 specific eligible ~~position-position~~, including any amount transferred to  
7 the Utility Account pursuant to G.S. 143B-437.61, may not exceed six  
8 thousand five hundred dollars (\$6,500) in any year.

9 (24) A provision stating that the business agrees to submit to an audit at any  
10 time that the Committee requires one.

11 (25) A provision encouraging the business to contract with small businesses  
12 headquartered in the State for goods and services."

13 **SECTION 7.** G.S. 143B-437.58 reads as rewritten:

14 **"§ 143B-437.58. Grant recipient to submit records.**

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

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

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

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

40 **SECTION 8.** G.S. 143B-437.59 reads as rewritten:

41 **"§ 143B-437.59. Failure to comply with agreement.**

42 (a) If the business receiving a grant fails to meet or comply with any condition or  
43 requirement set forth in an agreement or with criteria developed by the Committee in  
44 consultation with the Attorney General, the Committee shall amend the agreement to

1 reduce the amount of the grant or the term of the agreement and may terminate the  
2 agreement. Any reduction of the grant is applicable to the grant year immediately  
3 following the grant year in which the ~~Committee amends~~ business fails to comply with  
4 the agreement. The reduction in the amount or the term must, at a minimum, be  
5 proportional to the failure to comply measured relative to the condition or criterion with  
6 respect to which the failure occurred.

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

10 (1) If the business is still within the base period established by the  
11 Committee, the Committee shall withhold the grant for any  
12 consecutive year remaining in the base period in which the business  
13 fails to comply with any condition of the agreement, and the  
14 Committee may decide to extend the base period for up to 24  
15 additional months.

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

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

25 **SECTION 9.** G.S. 143B-437.60 reads as rewritten:

26 "**§ 143B-437.60. Disbursement of grant.**

27 A business may not receive an annual disbursement of a grant if, at the time of  
28 disbursement, the business has received a notice of an overdue tax debt and that overdue  
29 tax debt has not been satisfied or otherwise resolved. A business may receive an annual  
30 disbursement of a grant only after the Committee has certified ~~to the State Controller~~  
31 that there are no outstanding overdue tax debts and that the business has met the terms  
32 and conditions of the agreement. No amount shall be disbursed to a business as a grant  
33 under this Part in any year until the Secretary of Revenue has certified to the Committee  
34 (i) that there are no outstanding overdue tax debts of the business and (ii) the amount of  
35 withholdings received in that year by the Department of Revenue from the business. A  
36 business that has met the terms of the agreement shall make an annual certification of  
37 this to the Committee. The Committee shall require the business to provide any  
38 necessary evidence of compliance to verify this information and certify to the State  
39 ~~Controller~~ that the terms of the agreement have been met. The Committee shall ~~further~~  
40 certify ~~to the State Controller~~ the grant amount of a grant for which the business is  
41 eligible under the agreement and the grant amount of a grant for which the business  
42 would be eligible under the agreement without regard to G.S. 143B-437.56(d). The  
43 ~~State Controller~~ Department of Commerce shall remit a check to the business in the

1 amount of the certified grant amount within 90 days of receiving the certification of the  
2 Committee."

3 **SECTION 10.** G.S. 143B-437.61 reads as rewritten:

4 "**§ 143B-437.61. Transfer to Industrial Development Fund.**

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

11 **SECTION 11.** G.S. 143B-437.62 reads as rewritten:

12 "**§ 143B-437.62. Expiration.**

13 The authority of the Committee to enter into new agreements expires January 1,  
14 ~~2008~~2010."

15 **SECTION 12.** There is appropriated from the General Fund to the  
16 Department of Commerce the sum of five hundred thousand dollars (\$500,000) for the  
17 2006-2007 fiscal year for the administration of the Job Development Investment Grant  
18 Program and the monitoring of grants under the Program. It is the intent of the General  
19 Assembly that this be a recurring appropriation.

20 **SECTION 13.** G.S. 105-129.2A(a2) reads as rewritten:

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

25 **SECTION 14.** G.S. 105-164.14(j) reads as rewritten:

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

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

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

41 (2) Eligibility. – A facility is eligible under this subsection if it meets both  
42 of the following conditions:

43 a. It is primarily engaged in one of the industries listed in this  
44 subsection.

- 1                   b.     The Secretary of Commerce has certified that the owner of the  
2                   facility will invest at least the required amount of private funds  
3                   to construct the facility in this State. For the purpose of this  
4                   subsection, costs of construction may include costs of acquiring  
5                   and improving land for the facility and costs of equipment for  
6                   the facility. If the facility is located in an enterprise tier one,  
7                   two, or three area as defined in G.S. 105-129.3, the required  
8                   amount is fifty million dollars (\$50,000,000). For all other  
9                   facilities, the required amount is one hundred million dollars  
10                  (\$100,000,000). In the case of a computer manufacturing  
11                  facility, the owner may invest these funds either directly or  
12                  indirectly through a related entity or strategic partner as those  
13                  terms are defined in G.S. 105-129.61. In the case of a computer  
14                  manufacturing facility, the term "facility" has the same meaning  
15                  as under G.S. 105-129.61.
- 16                  (3)     Industries. – This subsection applies to the following industries:
- 17                  a.     Air courier services. Air courier services has the same meaning  
18                  as in G.S. 105-129.2.
- 19                  b.     Aircraft manufacturing. Aircraft manufacturing means  
20                  manufacturing or assembling complete aircraft.
- 21                  c.     Bioprocessing. Bioprocessing means biomanufacturing or  
22                  processing that includes the culture of cells to make commercial  
23                  products, the purification of biomolecules from cells, or the use  
24                  of these molecules in manufacturing.
- 25                  d.     Computer manufacturing. Computer manufacturing means  
26                  manufacturing or assembling electronic computers, such as  
27                  personal computers, workstations, laptops, and computer  
28                  servers. The term includes the assembly or integration of  
29                  processors, coprocessors, memory, storage, and input/output  
30                  devices into a user-programmable final product. The term  
31                  includes manufacturing or assembling computer peripheral  
32                  equipment, such as storage devices, printers, monitors,  
33                  input/output devices, and terminals only if the manufacture or  
34                  assembly of this peripheral equipment occurs at a facility or  
35                  campus at which the taxpayer also manufactures or assembles  
36                  electronic computers.
- 37                  e.     Financial services and securities operations and systems  
38                  development. Financial services and securities operations and  
39                  systems development means the following, when performed at a  
40                  facility no part of which is leased to third-party tenants and that  
41                  is owned and operated by the business for which the services  
42                  are provided:
- 43                         1.     Performing operations functions for investment banking,  
44                         securities dealing and brokering, securities trading and

- 1                                    underwriting, or investment portfolio/mutual fund  
2                                    management, and  
3                                    2.    Developing information technology systems, information  
4                                    technology applications, and software to support  
5                                    investment banking, securities dealing and brokering,  
6                                    securities trading and underwriting, or investment  
7                                    portfolio/mutual fund management.  
8                                    f.    Reserved for future codification purposes.  
9                                    g.    Motor vehicle manufacturing. Motor vehicle manufacturing  
10                                    means any of the following:  
11                                    1.    Manufacturing complete automobiles and light-duty  
12                                    motor vehicles.  
13                                    2.    Manufacturing heavy-duty truck chassis and assembling  
14                                    complete heavy-duty trucks, buses, heavy-duty motor  
15                                    homes, and other special purpose heavy-duty motor  
16                                    vehicles for highway use.  
17                                    3.    Manufacturing complete military armored vehicles,  
18                                    nonarmored military universal carriers, combat tanks,  
19                                    and specialized components for combat tanks.  
20                                    h.    Reserved for future codification purposes.  
21                                    i.    Reserved for future codification purposes.  
22                                    j.    Pharmaceutical and medicine manufacturing and distribution of  
23                                    pharmaceuticals and medicines. Pharmaceutical and medicine  
24                                    manufacturing means any of the following:  
25                                    1.    Manufacturing biological and medicinal products. For  
26                                    the purpose of this sub-subdivision, a biological product  
27                                    is a preparation that is synthesized from living organisms  
28                                    or their products and used medically as a diagnostic,  
29                                    preventive, or therapeutic agent. For the purpose of this  
30                                    sub-subdivision, bacteria, viruses, and their parts are  
31                                    considered living organisms.  
32                                    2.    Processing botanical drugs and herbs by grading,  
33                                    grinding, and milling.  
34                                    3.    Isolating active medicinal principals from botanical  
35                                    drugs and herbs.  
36                                    4.    Manufacturing pharmaceutical products intended for  
37                                    internal and external consumption in forms such as  
38                                    ampoules, tablets, capsules, vials, ointments, powders,  
39                                    solutions, and suspensions.  
40                                    k.    Reserved for future codification purposes.  
41                                    l.    Reserved for future codification purposes.  
42                                    m.    Semiconductor manufacturing. Semiconductor manufacturing  
43                                    means development and production of semiconductor material,  
44                                    devices, or components.

1           (4) Forfeiture. – If the owner of an eligible facility does not make the  
2           required minimum investment within five years after the first refund  
3           under this subsection with respect to the facility, the facility loses its  
4           eligibility and the owner forfeits all refunds already received under this  
5           subsection. Upon forfeiture, the owner is liable for tax under this  
6           Article equal to the amount of all past taxes refunded under this  
7           subsection, plus interest at the rate established in G.S. 105-241.1(i),  
8           computed from the date each refund was issued. The tax and interest  
9           are due 30 days after the date of the forfeiture. A person that fails to  
10          pay the tax and interest is subject to the penalties provided in  
11          G.S. 105-236.

12          (5) Sunset. This subsection is repealed for sales made on or after January  
13          1, ~~2010~~2013."

14          **SECTION 15.** Section 11 of this act becomes effective July 1, 2006. The  
15          remainder of this act is effective when it becomes law.