

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 1352
Committee Substitute Favorable 5/19/04

Short Title: Emergency Funding for One NC & NEIT.

(Public)

Sponsors:

Referred to:

May 10, 2004

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE EMERGENCY FUNDING FOR THE ONE NORTH
3 CAROLINA FUND AND THE NEW AND EXPANDING INDUSTRY
4 TRAINING PROGRAM AND TO CODIFY PROVISIONS RELATED TO THE
5 ONE NORTH CAROLINA FUND.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** There is appropriated from the General Fund to the One North
8 Carolina Fund the sum of twenty million dollars (\$20,000,000) for the 2003-2004 fiscal
9 year. Funds that are unexpended and unencumbered as of the end of the fiscal year do
10 not revert to the General Fund but remain available for these purposes. It is the intent of
11 the General Assembly that there be a recurring annual appropriation to the One North
12 Carolina Fund of ten million dollars (\$10,000,000) beginning with the 2006-2007 fiscal
13 year.

14 **SECTION 2.** There is appropriated from the General Fund to the
15 Community Colleges System Office the sum of four million one hundred thousand
16 dollars (\$4,100,000) for the 2003-2004 fiscal year for new and expanding industry
17 training.

18 **SECTION 3.** Article 10 of Chapter 143B of the General Statutes is amended
19 by adding a new Part to read:

20 "Part 2H. One North Carolina Fund.

21 **"§ 143B-437.70. Legislative findings and purpose.**

22 The General Assembly finds that:

23 (1) It is the policy of the State of North Carolina to stimulate economic
24 activity and to create new jobs for the citizens of the State by
25 encouraging and promoting the retention and expansion of existing
26 business and industry within the State and by recruiting and attracting
27 new business and industry to the State.

28 (2) Both short-term and long-term economic trends at the State, national,
29 and international levels have made the successful implementation of

1 the State's economic development policy and programs both more
2 critical and more challenging; and the decline in the State's traditional
3 industries, and the resulting adverse impact upon the State and its
4 citizens, have been exacerbated in recent years by adverse national and
5 State economic trends that contribute to the reduction in the State's
6 industrial base and that inhibit the State's ability to sustain or attract
7 new and expanding businesses.

8 (3) The purpose of this Part is to stimulate economic activity and to create
9 new jobs within the State.

10 (4) The enactment of this Part will maintain consistency and
11 accountability in a key economic development program and will
12 ensure that the program benefits the State and its citizens.

13 (5) Nothing in this Part shall be construed to constitute a guarantee or
14 assumption by the State of any debt of any business or to authorize the
15 taxing power or the full faith and credit of the State to be pledged.

16 **"§ 143B-437.71. One North Carolina Fund established as a nonreverting account.**

17 (a) Establishment. – The One North Carolina Fund is established as a special
18 revenue fund in the Department of Commerce.

19 (b) Purposes. – Moneys in the One North Carolina Fund may be allocated only to
20 local governments for use in connection with securing commitments for the recruitment,
21 expansion, or retention of new and existing businesses. Moneys in the One North
22 Carolina Fund shall be used for the following purposes only:

23 (1) Installation or purchase of equipment.

24 (2) Structural repairs, improvements, or renovations to existing buildings
25 to be used for expansion.

26 (3) Construction of or improvements to new or existing water, sewer, gas,
27 or electric utility distribution lines or equipment for existing buildings.

28 (4) Construction of or improvements to new or existing water, sewer, gas,
29 or electric utility distribution lines or equipment for new or proposed
30 buildings to be used for manufacturing and industrial operations.

31 (5) Any other purposes specifically provided by an act of the General
32 Assembly.

33 **"§ 143B-437.72. Agreements required; disbursement of funds.**

34 (a) Agreements Required. – Funds may be disbursed from the One North
35 Carolina Fund only in accordance with agreements entered into between the State and
36 one or more local governments and between the local government and a grantee
37 business.

38 (b) Company Performance Agreements. – An agreement between a local
39 government and a grantee business must contain the following provisions:

40 (1) A commitment to create or retain a specified number of jobs within a
41 specified salary range at a specific location and commitments
42 regarding the time period in which the jobs will be created or retained
43 and the minimum time period for which the jobs must be maintained.

- 1 (2) A commitment to provide proof satisfactory to the local government
2 and the State of new jobs created or existing jobs retained and the
3 salary level of those jobs.
- 4 (3) A provision that funds received under the agreement may be used only
5 for a purpose specified in G.S. 143B-437.71(b).
- 6 (4) A provision allowing the State or the local government to inspect all
7 records of the business that may be used to confirm compliance with
8 the agreement or with the requirements of this Part.
- 9 (5) A provision establishing the method for determining compliance with
10 the agreement.
- 11 (6) A provision establishing a schedule for disbursement of funds under
12 the agreement that allows disbursement of funds only in proportion to
13 the amount of performance completed under the agreement.
- 14 (7) A provision requiring recapture of grant funds if a business
15 subsequently fails to comply with the terms of the agreement.
- 16 (8) Any other provision the State or the local government finds necessary
17 to ensure the proper use of State or local funds.
- 18 (c) Local Government Grant Agreement. – An agreement between the State and
19 one or more local governments shall contain the following provisions:
- 20 (1) A commitment on the part of the local government to match the funds
21 allocated by the State. A local match may include cash, fee waivers,
22 in-kind services, the donation of assets, the provision of infrastructure,
23 or a combination of these.
- 24 (2) A provision requiring the local government to recapture any funds to
25 which the local government is entitled under the company performance
26 agreement.
- 27 (3) A provision requiring the local government to reimburse the State for
28 any funds improperly disbursed or funds recaptured by the local
29 government.
- 30 (4) A provision allowing the State access to all records possessed by the
31 local government necessary to ensure compliance with the company
32 performance agreement and with the requirements of this Part.
- 33 (5) A provision establishing a schedule for the disbursement of funds from
34 the One North Carolina Fund to the local government that reflects the
35 disbursement schedule established in the company performance
36 agreement.
- 37 (6) Any other provision the State finds necessary to ensure the proper use
38 of State funds.
- 39 (d) Disbursement of Funds. – Funds may be disbursed from the One North
40 Carolina Fund to the local government only after the local government has
41 demonstrated that the business has complied with the terms of the company
42 performance agreement. The State shall disburse funds allocated under the One North
43 Carolina Fund to a local government in accordance with the disbursement schedule
44 established in the local government grant agreement.

1 **"§ 143B-437.73. Program guidelines.**

2 The Department of Commerce, in conjunction with the Governor's Office, shall
3 develop guidelines related to the administration of the One North Carolina Fund and to
4 the selection of projects to receive allocations from the Fund. At least 20 days before the
5 effective date of any guidelines or nontechnical amendments to guidelines, the
6 Department of Commerce must publish the proposed guidelines on the Department's
7 Web site and provide notice to persons who have requested notice of proposed
8 guidelines. In addition, the Department must accept oral and written comments on the
9 proposed guidelines during the 15 business days beginning on the first day that the
10 Department has completed these notifications. For the purpose of this section, a
11 technical amendment is either of the following:

12 (1) An amendment that corrects a spelling or grammatical error.

13 (2) An amendment that makes a clarification based on public comment
14 and could have been anticipated by the public notice that immediately
15 preceded the public comment.

16 **"§ 143B-437.74. Reports.**

17 The Department of Commerce shall publish a report on the use of funds in the One
18 North Carolina Fund at the end of each fiscal quarter. The report shall contain
19 information on the commitment, disbursement, and use of funds allocated under the One
20 North Carolina Fund. The report is due no later than one month after the end of the
21 fiscal quarter and must be submitted to the following:

22 (1) The Joint Legislative Commission on Governmental Operations.

23 (2) The chairs of the House and Senate Finance Committees.

24 (3) The chairs of the House and Senate Appropriations Committees.

25 (4) The Fiscal Research Division of the General Assembly."

26 **SECTION 4.** G.S. 150B-1(d) is amended by adding a new subdivision to

27 read:

28 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to
29 the following:

30 ...

31 (13) The Department of Commerce and the Governor's Office in
32 developing guidelines for the One North Carolina Fund under Part 2H
33 of Article 10 of Chapter 143B of the General Statutes."

34 **SECTION 5.** Program guidelines developed by the Department of
35 Commerce for the One North Carolina Industrial Recruitment Competitive Fund that
36 are in effect when this act becomes effective shall apply to the One North Carolina Fund
37 enacted by this act until guidelines for the One North Carolina Fund are adopted
38 pursuant to G.S. 143B-437.73. Program guidelines for the One North Carolina Fund
39 shall be adopted in accordance with G.S. 143B-437.73 on or before July 1, 2004.

40 **SECTION 6.** This act is effective when it becomes law.