

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

**SESSION LAW 2004-88  
HOUSE BILL 1352**

AN ACT TO PROVIDE EMERGENCY FUNDING FOR THE ONE NORTH CAROLINA FUND AND THE NEW AND EXPANDING INDUSTRY TRAINING PROGRAM, TO CODIFY PROVISIONS RELATED TO THE ONE NORTH CAROLINA FUND, TO APPROPRIATE FUNDS TO THE RURAL ECONOMIC DEVELOPMENT CENTER TO BE USED FOR ECONOMIC INFRASTRUCTURE, AND TO MAKE NECESSARY TRANSITIONAL ADJUSTMENTS TO THE STATE BUDGET.

The General Assembly of North Carolina enacts:

**APPROPRIATIONS FOR THE ONE NORTH CAROLINA FUND AND FOR THE NEW AND EXPANDING INDUSTRY PROGRAM**

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

**SECTION 1.(b)** Of the funds appropriated in this section to the One North Carolina Fund, the Department of Commerce may use up to three hundred thousand dollars (\$300,000) to cover its expenses in administering the One North Carolina Fund and other economic development incentive grant programs during the 2004-2005 fiscal year.

**SECTION 1.(c)** There is appropriated from the General Fund to the Community Colleges System Office the sum of four million one hundred thousand dollars (\$4,100,000) for the 2003-2004 fiscal year for new and expanding industry training. Funds that are unexpended and unencumbered as of the end of the fiscal year do not revert to the General Fund but remain available for these purposes.

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

"Part 2H. One North Carolina Fund.

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

The General Assembly finds that:

- (1) It is the policy of the State of North Carolina to stimulate economic activity and to create new jobs for the citizens of the State by encouraging and promoting the retention and expansion of existing business and industry within the State and by recruiting and attracting new business and industry to the State.
- (2) Both short-term and long-term economic trends at the State, national, and international levels have made the successful implementation of the State's economic development policy and programs both more critical and more challenging; and the decline in the State's traditional industries, and the resulting adverse impact upon the State and its citizens, have been exacerbated in recent years by adverse national and State economic trends that contribute to the reduction in the State's

industrial base and that inhibit the State's ability to sustain or attract new and expanding businesses.

- (3) The purpose of this Part is to stimulate economic activity and to create new jobs within the State.
- (4) The enactment of this Part will maintain consistency and accountability in a key economic development program and will ensure that the program benefits the State and its citizens.
- (5) Nothing in this Part shall be construed to constitute a guarantee or assumption by the State of any debt of any business or to authorize the taxing power or the full faith and credit of the State to be pledged.

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

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

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

- (1) Installation or purchase of equipment.
- (2) Structural repairs, improvements, or renovations to existing buildings to be used for expansion.
- (3) Construction of or improvements to new or existing water, sewer, gas, or electric utility distribution lines or equipment for existing buildings.
- (4) Construction of or improvements to new or existing water, sewer, gas, or electric utility distribution lines or equipment for new or proposed buildings to be used for manufacturing and industrial operations.
- (5) Any other purposes specifically provided by an act of the General Assembly.

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

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

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

- (1) A commitment to create or retain a specified number of jobs within a specified salary range at a specific location and commitments regarding the time period in which the jobs will be created or retained and the minimum time period for which the jobs must be maintained.
- (2) A commitment to provide proof satisfactory to the local government and the State of new jobs created or existing jobs retained and the salary level of those jobs.
- (3) A provision that funds received under the agreement may be used only for a purpose specified in G.S. 143B-437.71(b).
- (4) A provision allowing the State or the local government to inspect all records of the business that may be used to confirm compliance with the agreement or with the requirements of this Part.
- (5) A provision establishing the method for determining compliance with the agreement.
- (6) A provision establishing a schedule for disbursement of funds under the agreement that allows disbursement of funds only in proportion to the amount of performance completed under the agreement.
- (7) A provision requiring recapture of grant funds if a business subsequently fails to comply with the terms of the agreement.
- (8) Any other provision the State or the local government finds necessary to ensure the proper use of State or local funds.

(c) Local Government Grant Agreement. – An agreement between the State and one or more local governments shall contain the following provisions:

- (1) A commitment on the part of the local government to match the funds allocated by the State. A local match may include cash, fee waivers, in-kind services, the donation of assets, the provision of infrastructure, or a combination of these.
- (2) A provision requiring the local government to recapture any funds to which the local government is entitled under the company performance agreement.
- (3) A provision requiring the local government to reimburse the State for any funds improperly disbursed or funds recaptured by the local government.
- (4) A provision allowing the State access to all records possessed by the local government necessary to ensure compliance with the company performance agreement and with the requirements of this Part.
- (5) A provision establishing a schedule for the disbursement of funds from the One North Carolina Fund to the local government that reflects the disbursement schedule established in the company performance agreement.
- (6) Any other provision the State finds necessary to ensure the proper use of State funds.

(d) Disbursement of Funds. – Funds may be disbursed from the One North Carolina Fund to the local government only after the local government has demonstrated that the business has complied with the terms of the company performance agreement. The State shall disburse funds allocated under the One North Carolina Fund to a local government in accordance with the disbursement schedule established in the local government grant agreement.

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

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

- (1) An amendment that corrects a spelling or grammatical error.
- (2) An amendment that makes a clarification based on public comment and could have been anticipated by the public notice that immediately preceded the public comment.

**"§ 143B-437.74. Reports.**

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

- (1) The Joint Legislative Commission on Governmental Operations.
- (2) The chairs of the House of Representatives and Senate Finance Committees.
- (3) The chairs of the House of Representatives and Senate Appropriations Committees.
- (4) The Fiscal Research Division of the General Assembly."

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

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

...

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

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

**SECTION 1.(g)** This section becomes effective June 30, 2004. Subsection (d) of this section does not apply to commitments made under the One North Carolina Industrial Recruitment Competitive Fund prior to July 1, 2004.

## **APPROPRIATION FOR THE RURAL ECONOMIC DEVELOPMENT CENTER**

**SECTION 2.(a)** There is appropriated from the General Fund to the Rural Economic Development Center, Inc., the sum of twenty million dollars (\$20,000,000) for the 2003-2004 fiscal year to be allocated as follows:

- (1) To establish the North Carolina Infrastructure Program. The purpose of the Program is to provide grants to local governments to construct critical water and wastewater facilities and to provide other infrastructure needs, including technology needs, to sites where these facilities will generate private job-creating investment. At least fifteen million dollars (\$15,000,000) of the funds appropriated in this section must be used to provide grants under this Program.
- (2) To provide matching grants to local governments in distressed areas and equity investments in public-private ventures that will productively reuse vacant buildings, with priority given to towns with a population of less than 5,000.
- (3) To provide research and demonstration grants.

**SECTION 2.(b)** The Rural Economic Development Center, Inc., may contract with other State agencies, constituent institutions of The University of North Carolina, and colleges within the North Carolina Community College System for certain aspects of the program, including design of program guidelines and evaluation of program results.

**SECTION 2.(c)** The Rural Economic Development Center, Inc., may use up to four percent (4%) of the funds appropriated by this act to cover its expenses in administering the North Carolina Economic Infrastructure Program.

**SECTION 2.(d)** The Rural Economic Development Center, Inc., shall report annually to the Joint Legislative Commission on Governmental Operations concerning the progress of the North Carolina Economic Infrastructure Program. It must make its initial report on the program no later than January 15, 2005.

**SECTION 2.(e)** The General Fund Availability Statement for the 2003-2005 fiscal biennium, as enacted in Section 2.2(a) of S.L. 2003-284, does not reflect the additional General Fund revenue collections in the amount of two hundred thirty-five million one hundred thousand dollars (\$235,100,000) for the 2003-2004 fiscal year.

**SECTION 2.(f)** This section becomes effective June 30, 2004.

## **APPROPRIATION TO REPAY DEBT TO THE RETIREMENT SYSTEM**

**SECTION 3.(a)** There is appropriated from the General Fund to the Teachers' and State Employees' Retirement System Fund the sum of twenty million dollars (\$20,000,000) for the 2003-2004 fiscal year to partially pay back the debt owed to the Fund.

**SECTION 3.(b)** This section becomes effective June 30, 2004.

#### **DIRECTIONS AND LIMITATIONS ON EXPENDITURES OF STATE FUNDS**

**SECTION 4.(a)** The appropriations and the authorizations to allocate and spend funds, which are set out in this act, shall remain in effect until the Current Operations and Capital Improvements Appropriations Act of 2004 becomes law, at which time that act shall become effective and shall govern appropriations and expenditures. When the Current Operations and Capital Improvements Appropriations Act of 2004 becomes law, the Director of the Budget shall adjust allocations to give effect to that act from July 1, 2004.

Except as otherwise provided by this act, the limitations and directions for the 2003-2004 fiscal year in S.L. 2003-283 and S.L. 2003-284 remain in effect. Session laws that applied to appropriations to particular agencies or for particular purposes apply to the funds appropriated and authorized for expenditure under this act.

**SECTION 4.(b)** If the provisions of (i) House Bill 1414, 3rd Edition, of the 2004 Regular Session of the General Assembly, (ii) House Bill 1414, 6<sup>th</sup> Edition, of the 2004 Regular Session of the General Assembly, or (iii) both, direct that funds shall not revert, the funds shall not revert on June 30, 2004. Unless these funds are encumbered on or before June 30, 2004, these funds shall not be expended after June 30, 2004, except as provided by a statute that becomes effective after June 30, 2004.

**SECTION 4.(c)** Subsection (b) of this section becomes effective June 30, 2004.

#### **BLOCK GRANT PROVISIONS**

**SECTION 5.** The Director of the Budget shall continue to allocate federal block grant funds at the levels provided in Sections 5.1 and 5.2 of S.L. 2003-284 and as otherwise provided by law, and appropriations from federal block grants are hereby made.

#### **CASH BALANCES, FEDERAL RECEIPTS, AND DEPARTMENTAL RECEIPTS**

**SECTION 6.** There is appropriated out of the cash balances, federal receipts, and departmental receipts available to each department, sufficient amounts to carry on authorized activities included under each department's operations. All these cash balances, federal receipts, and departmental receipts shall be expended and reported in accordance with provisions of the Executive Budget Act, except as otherwise provided by statute, and shall be expended at the level of service authorized by the General Assembly. If the receipts, other than gifts and grants that are unanticipated and are for a specific purpose only, collected in a fiscal year by an institution, department, or agency exceed the receipts certified for it in General Fund Codes or Highway Fund Codes, then the Director of the Budget shall decrease the amount he allots to that institution, department, or agency from appropriations from that Fund by the amount of the excess, unless the Director of the Budget finds that the appropriations from the Fund are necessary to maintain the function that generated the receipts at the level anticipated in the certified budget codes for that Fund.

Funds that become available from overrealized receipts in General Fund Codes and Highway Fund Codes may be used for new permanent employee positions or to raise the salary of existing employees only as follows:

- (1) As provided in G.S. 116-30.1, 116-30.2, 116-30.3, 116-30.4; or
- (2) If the Director of the Budget finds that the new permanent employee positions are necessary to maintain the function that generated the

receipts at the level anticipated in the certified budget codes for that Fund. The Director of the Budget shall notify the President Pro Tempore of the Senate, the Speakers of the House of Representatives, the Chairs of the Appropriations Committees of the Senate and the House of Representatives, and the Fiscal Research Division of the Legislative Services Office that he intends to make such a finding at least 10 days before he makes the finding. The notification shall set out the reason the positions are necessary to maintain the function.

The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office within 30 days after the end of each quarter the General Fund Codes or Highway Fund Codes that did not result in a corresponding reduced allotment from appropriations from that Fund.

#### **NO AUTOMATIC STEP INCREASES FOR STATE AND PUBLIC SCHOOL EMPLOYEES**

**SECTION 7.** State employees subject to G.S. 7A-102(c), 7A-171.1, or 20-187.3 shall not move up on salary schedules or receive automatic increases, including automatic step increases, until authorized by the General Assembly.

Public school employees paid on the teacher salary schedule or the school-based administrator salary schedule shall not move up on salary schedules or receive automatic step increases until authorized by the General Assembly.

#### **STATE CONTROLLER SHALL NOT TRANSFER FUNDS ON JUNE 30**

**SECTION 8.(a)** Notwithstanding G.S. 143-15.2 and G.S.143-15.3, for the 2003-2004 fiscal year only, funds shall not be reserved to the Savings Reserve Account, and the State Controller shall not transfer funds from the unreserved credit balance to the Savings Reserve Account on June 30, 2004.

**SECTION 8.(b)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, for the 2003-2004 fiscal year only, funds shall not be reserved to the Repairs and Renovations Reserve Account, and the State Controller shall not transfer funds from the unreserved credit balance to the Repairs and Renovations Reserve Account on June 30, 2004.

**SECTION 8.(c)** This section becomes effective June 30, 2004.

#### **EFFECTIVE DATE**

**SECTION 9.** Except as otherwise provided in this act, this act becomes effective July 1, 2004. Sections 4 through 8 of this act expire July 9, 2004.

In the General Assembly read three times and ratified this the 30<sup>th</sup> day of June, 2004.

s/ Marc Basnight  
President Pro Tempore of the Senate

s/ Richard T. Morgan  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 3:17 p.m. this 9<sup>th</sup> day of July, 2004