

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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HOUSE DRH10256-LC-204 (5/4)

Short Title: Clawback Failed Incentives.

(Public)

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

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Referred to:

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A BILL TO BE ENTITLED

1  
2 AN ACT TO PROVIDE FOR PUBLICATION, MONITORING, AND REPORTING  
3 ON ECONOMIC DEVELOPMENT INCENTIVE CLAWBACKS AND TO  
4 PROVIDE FOR FIRST SOURCE HIRING AGREEMENTS FOR INCENTIVE  
5 GRANTS AND LOANS.

6 The General Assembly of North Carolina enacts:

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

9 **"§ 143B-435.1. Clawbacks.**

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

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

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

24 (d) Report. – The Department of Commerce shall report to the Revenue Laws  
25 Study Committee by April 1 and October 1 of each year on all clawbacks that have been  
26 triggered under programs it administers and its progress on obtaining repayment. The

1 report must include the name of each business, the event that triggered the clawback,  
2 and the amount to be repaid.

3 **"§ 143B-435.2. First source hiring.**

4 In order for a business to be eligible for an economic development grant or loan  
5 under this Article or from the One North Carolina Industrial Recruitment Competitive  
6 Fund, the business must have entered into a first source hiring contract to utilize the  
7 State Employment Security Commission and any cooperating local agency as its first  
8 source for recruitment and referral of applicants for new and replacement employment.  
9 Under the contract, the business must allow the agency three days to refer applicants.  
10 Upon request of the business in the case of an emergency, the agency may waive the  
11 three-day period. Under the contract, the business must interview and consider qualified  
12 candidates referred by the agency before interviewing other candidates. The term of the  
13 first source contract must be at least as long as the term of the grant or loan agreement  
14 under this Article. The Secretary of Commerce may waive this requirement for projects  
15 in enterprise tiers one and two and in areas of especially severe economic distress, as  
16 determined by the Secretary."

17 **SECTION 1.(b)** There is appropriated from the General Fund to the  
18 Department of Commerce the sum of seven thousand dollars (\$7,000) for the 2004-2005  
19 fiscal year to implement this section.

20 **SECTION 2.(a)** G.S. 105-129.6(b) reads as rewritten:

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

- 24 (1) The number of claims for each credit allowed in this Article.
- 25 (2) The number and enterprise tier area of new jobs with respect to which  
26 credits were generated and to which credits were claimed.
- 27 (3) The cost and enterprise tier area of machinery and equipment with  
28 respect to which credits were generated and to which credits were  
29 claimed.
- 30 (4) The number of new jobs created by businesses located in development  
31 zones, and the percentage of jobs at those locations that were filled by  
32 residents of the zones.
- 33 (5) The amount and enterprise tier area of worker training expenditures  
34 with respect to which credits were generated and to which credits were  
35 claimed.
- 36 (6) The amount and enterprise tier area of new research and development  
37 expenditures with respect to which credits were generated and to  
38 which credits were claimed.
- 39 (7) The cost and enterprise tier area of real property investment with  
40 respect to which credits were generated and to which credits were  
41 claimed.
- 42 (8) The number and amount of credits forfeited under G.S. 105-129.4(d)  
43 and the reason for the forfeiture.

1           (9) The number and amount of assessments for credits erroneously  
2           claimed under this Article that are not included in subdivision (8) of  
3           this subsection."

4           **SECTION 2.(b)** There is appropriated from the General Fund to the  
5 Department of Revenue the sum of seven thousand dollars (\$7,000) for the 2004-2005  
6 fiscal year to implement this section.

7           **SECTION 3.** This act becomes effective July 1, 2004.