

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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SENATE BILL 1117*

Short Title: One NC Fund Appropriations/Codification. (Public)

Sponsors: Senators Kerr, Hartsell, Albertson, Apodaca, Bingham, Dalton, Dannelly, Garrou, Jenkins, Queen, Sloan, and Weinstein.

Referred to: Appropriations/Base Budget.

May 17, 2004

A BILL TO BE ENTITLED
AN ACT TO APPROPRIATE FUNDS TO THE ONE NORTH CAROLINA FUND
AND TO CODIFY PROVISIONS RELATING TO THE ONE NORTH
CAROLINA FUND.

The General Assembly of North Carolina enacts:

SECTION 1. There is appropriated from the General Fund to the One North Carolina Fund, established pursuant to G.S. 143B-437.71, the sum of ten million dollars (\$10,000,000) for the 2004-2005 fiscal year. It is the intent of the General Assembly that this become a recurring appropriation.

SECTION 2. 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.

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

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

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

9 **"§ 143B-437.71. One North Carolina Fund established as a nonreverting account.**

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

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

16 (1) Installation or purchase of equipment.

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

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

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

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

26 **"§ 143B-437.72. Agreements required; disbursement of funds.**

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

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

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

37 (2) A commitment to provide proof satisfactory to the local government
38 and the State of new jobs created or existing jobs retained and the
39 salary level of those jobs.

40 (3) A provision that funds received under the agreement may be used only
41 for a purpose specified in G.S. 143B-437.71(b).

42 (4) A provision allowing the State or the local government to inspect all
43 records of the business that may be used to confirm compliance with
44 the agreement or with the requirements of this Part.

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

36 **"§ 143B-437.73. Program guidelines.**

37 The Department of Commerce, in conjunction with the Governor's Office, shall
38 develop guidelines related to the administration of the One North Carolina Fund and to
39 the selection of projects to receive allocations from the Fund. At least 20 days before the
40 effective date of any guidelines or nontechnical amendments to guidelines, the
41 Department of Commerce must publish the proposed guidelines on the Department's
42 web site and provide notice to persons who have requested notice of proposed
43 guidelines. In addition, the Department must accept oral and written comments on the
44 proposed guidelines during the 15 business days beginning on the first day that the

1 Department has completed these notifications. For the purpose of this section, a
2 technical amendment is either of the following:

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

7 "**§ 143B-437.74. Reports.**

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

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

17 **SECTION 3.** G.S. 150B-1(d)is amended by adding a new subdivision to
18 read:

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

- 21 ...
22 (13) The Department of Commerce and the Governor's Office in
23 developing guidelines for the One North Carolina Fund under Part 2H
24 of Article 10 of Chapter 143B of the General Statutes."

25 **SECTION 4.** This act becomes effective July 1, 2004.