

# NORTH CAROLINA DEPARTMENT OF COMMERCE



April 1, 2010 Report

Information current as of March 24, 2010

This report is made to the Revenue Laws Study Committee, pursuant to N.C. Gen. Stat. § 143B-435.1(d).

The following provides information on clawbacks in various programs administered by the Dept. of Commerce.

PROGRAM	COMPANY	TOTAL AMT TO BE REPAID	AMT REPAID	DATE AND/OR TERMS OF RECOVERY	AMT TO BE REPAID	TRIGGERING EVENT
One NC <sup>1</sup>	Philip Morris USA	\$ 750,000.00	\$ 750,000.00	7-5-07	0	Facility closed. Moved operations to Va.
One NC	Pulte Mortgage	\$ 55,000.00	\$ 55,000.00	10-6-08	0	Facility closed
One NC	IWCO Direct	\$ 93,750.00	\$ 20,833.32	\$5208.33 to be paid monthly from 12/21/09 thru 5/21/11	\$72,916.68	Facility closed
JDIG <sup>2</sup>	Brunswick Corporation	\$ 83,524.00	\$ 83,524.00	4-23-09	0	Facility closed
JDIG	Dell	\$ 1,512,000 .00	\$ 1,512,000.00	10-23-09	0	Facility closed
JDIG	Volvo Construction Equipment	\$ 69,247.00	\$ 69,247.00	1-4-10	0	Termination of project operations
JDIG	Chris Craft	\$ 54,212.00	\$ 4,517.74	\$4517.66 to be paid quarterly from 6/1/10 thru 12/1/12	\$49,694.26	Termination of project operations
JDIG	ITG	\$ 13,780.00	\$ 4,593.34	\$4593.33 to be paid on 6/1/10 and 9/1/10	\$ 9,186.66	Project terminated due to lay-offs
Green Business Fund <sup>3</sup>	Evans Environmental Energies, Inc.	\$ 15,540.42	\$ 15,540.42	10-28-09	0	Project terminated due to industrial accident and declining economy; unspent money returned

<sup>1</sup> The One North Carolina Fund statute requires that grant agreement include, and grant agreement do include, the ability to recapture funds for a grantee's failure to comply with the agreement. See N.C. Gen. Stat. §143B-437.72(b)(7). Section 2.7 of The Guidelines for One North Carolina, promulgated under the One NC Statute also requires that agreements contain recapture provisions for nonperformance.

<sup>2</sup> Job Development Investment Grant Program. The ability to recapture funds for failing to maintain operations at the project location for at least 150% of the grant term is statutorily required to be, and is in fact, reflected in JDIG Agreements. This requirement is also reiterated in Section 11.3 of the Criteria for Operation and Implementation of the Job Development Investment Grant Program.

<sup>3</sup> The ability to recapture funds for performance failures is statutorily required to be, and is in fact, reflected in the N.C. Green Business Fund grant agreements. See §143B-437.6(5).