

North Carolina Department of Commerce

Clawback Report-October 1, 2010

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

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|---------------------------------------|--------------------|
| Citation of Law or Resolution: | 2007-515, s.6 |
| Section Number: | Section 143B-435.1 |
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Receiving Entities:

The Revenues Laws Study Committee
The Joint Legislative Commission on Governmental Operations
The Fiscal Research Division

Submitting Entity:

North Carolina Department of Commerce

**NORTH CAROLINA
DEPARTMENT OF COMMERCE**



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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 Recovered | AMT TO BE REPAID | TRIGGERING EVENT |
|--|---|---------------------------|----------------|-----------------------------------|---------------------|---|
| One NC ⁱ | AmeriKart (NC) Corp | \$11,616.00 | \$11,616.06 | 7/27/2010 | \$0.00 | Local match not completed. |
| One NC | IWCO | \$93,750.00 | \$52,083.30 | Mo pymt due thru 5/21/11 | \$41,666.70 | Facility closed. |
| One NC | Menlo Logistics | \$15,000.00 | \$15,000.00 | 5/27/2010 | \$0.00 | Facility closed. |
| One NC | Philip Morris USA | \$750,000.00 | \$750,000.00 | 7/5/2007 | \$0.00 | Facility closed. |
| One NC | Pulte Mortgage | \$55,000.00 | \$55,000.00 | 10/6/2008 | \$0.00 | Facility closed. |
| JDIG ⁱⁱ | Brunswick Corporation | \$83,524.00 | \$83,524.00 | 4/23/2009 | \$0.00 | Facility closed. |
| JDIG | Chris-Craft Corporation | \$54,212.00 | \$13,552.76 | Qtrly pymt due thru 12/1/12 | \$40,659.24 | Termination of project activities |
| JDIG | Dell Products LP | \$1,512,680.00 | \$1,512,680.00 | 11/16/09 | \$0.00 | Termination of project activities |
| JDIG | General Electric Company II | \$411,692.00 | \$411,692.00 | 5/30/2010 | \$0.00 | Termination of grant. |
| JDIG | Headway Corporation | \$50,175.00 | \$40,140.00 | Mo pymt due thru 10/30/10 | \$10,035.00 | Termination of project activities |
| JDIG | ITG Automotive Safety Textiles, LLC (Narricot Industries) | \$13,780.00 | \$13,780.00 | 9/1/2010 | \$0.00 | Termination of project activities. |
| JDIG | Volvo Construction Equipment | \$69,247.00 | \$69,247.00 | 1/4/2010 | \$0.00 | Termination of project activities. |
| Green Business Fund ⁱⁱⁱ | Evans Environmental Energies, Inc. | \$15,540.42 | \$15,540.42 | 10/28/09 | \$0.00 | Project terminated due to industrial accident & declining economy. |

ⁱ The One North Carolina Fund statute requires that grant agreement include, and grant agreements 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.

ⁱⁱ 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.

ⁱⁱⁱ 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)*.