NORTH CAROLINA GENERAL ASSEMBLY

# JOINT SELECT COMMITTEE ON ECONOMIC DEVELOPMENT INCENTIVES

## REPORT TO THE
## 2009 SESSION
of the
## 2009 GENERAL ASSEMBLY

**FEBRUARY 18, 2009**

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[1]All of the meeting handouts, including Power Point presentations, may be accessed online at the Joint Select Committee on Economic Development Incentives website: http://www.ncleg.net/gascripts/committees/committeeWebsites.pl

# TRANSMITTAL LETTER

**February 18, 2009**

**TO THE MEMBERS OF THE 2009 GENERAL ASSEMBLY:**

The Joint Select Committee on Economic Development Incentives respectfully submits to you for your consideration the following report.

| | |
|---|---|
| **Representative Bill Owens**<br>**Co-Chair** | **Senator David Hoyle**<br>**Co-Chair** |
| **Representative Jennifer Weiss**<br>**Co-Chair** | **Senator Tony Foriest**<br>**Co-Chair** |

# PREFACE

The General Assembly created the Joint Select Committee on Economic Development Incentives on March 2, 2007, as a Senate Select Committee under Rule 31 of the Rules of the Senate of the 2007 General Assembly and as a House Select Committee under Rule 26(a) of the Rules of the House of Representatives of the 2007 General Assembly. The authorizing letter directed the Select Committees to meet together and function as a joint committee. The Joint Select Committee consisted of twenty-two members, eleven appointed by the President Pro Tempore of the Senate and eleven appointed by the Speaker of the House of Representatives. Senators David Hoyle and Tony Foriest and Representatives Bill Owens and Jennifer Weiss served as the co-chairs of the Committee. Appendix A contains a copy of the Committee's authorization and membership. The staff for the Committee included: DeAnne Mangum, Committee Assistant; Cindy Avrette, Research Division; Barry Boardman and Rodney Bizzell, Fiscal Research Division; Sabra Faires, Senate Tax Counsel; and Canaan Huie, House Tax Counsel.

The Committee's authorization directed it to examine and review the following:

1. The interaction between economic incentives and other economic development tools in North Carolina and in other states.
2. The role of State and local governments in recruiting businesses.
3. The extent to which tax and other incentives have promoted economic development in the State and at what cost.
4. Ways to ensure that legislators have adequate information about potential projects when presented with legislation to give incentives for the projects.
5. Whether companies that receive incentives should be required to submit annualized, cumulative, and comprehensive reports to the Joint Legislative Commission on Governmental Operations.
6. Methods to ensure that clawback provisions adequately protect North Carolina's investment.
7. Any other information the Committee finds helpful in its deliberations.

The Committee met nine times from October 24, 2007, until January 21, 2009. Appendix B contains a copy of the Committee's agenda for each meeting. A committee notebook containing the Committee minutes and all information presented to the Committee is filed in the Legislative Library. The minutes and information may also be accessed on the Committee's website: http://www.ncleg.net/gascripts/committees/committeeWebsites.pl

# COMMITTEE PROCEEDINGS

North Carolina made little use of tax incentives to lure businesses to the State prior to 1996. Even without incentives, North Carolina consistently ranked as one of the top states in attracting industry. In 1996, in response to incentives offered by other southern states, the General Assembly enacted an array of statutory tax credits to incent companies to create or expand job opportunities. The initial incentive program, known as the "Bill Lee Act", had two shared goals: create high quality jobs and promote widely shared prosperity across the State. Over the next decade, the State expanded its use of statutory tax incentives and introduced the use of discretionary nontax incentives as well. The largest discretionary nontax incentives are the Job Development Investment Grant Program and the One North Carolina Fund.

The stated objectives in 1996 have blurred in practice as most of the incented companies have located in metropolitan areas of the State and amendments to the laws have weakened the applicable wage standards. In 2007, the State further ended the initial goals by granting discretionary nontax incentives to companies for making significant capital investments in the State. The program, known as the Job Maintenance and Capital Development Fund, provided a direct incentive to existing businesses and it did not require job creation. This legislation marked a shift from using incentives to create and expand job opportunities to using incentives to retain existing jobs.

The initial incentive program enacted in 1996 was originally viewed as an experiment, to be evaluated in five years to determine whether the incentives were cost effective and actually affected behavior or merely provided tax reductions to businesses that would have located or expanded in any case. Increased use of State and local incentives in 2006 and 2007 renewed interest in the answer to these questions and became the catalyst for the creation of the Joint Select Committee on Economic Development Incentives in March 2007. The Committee viewed its formation as an opportunity to accomplish the following:

- Review the State's current economic development incentives policies and practices.
- Analyze the cost associated with those policies.
- Identify the incentives that give the State the greatest economic development impact for its investment of public monies.
- Revisit and reassess the State's economic development goals.
- Evaluate whether the State's economic development incentive policies further these goals.

To accomplish these objectives, the Committee needed a thorough analysis of the available data of the incentive recipients and the employment performance of these incented companies. In January 2008, the Committee contracted with the University of North Carolina's Center for Competitive Economies ($C^3E$) to assist it in evaluating the performance of North Carolina's economic development incentive programs. The work of the Committee culminated with a summary of $C^3E$'s findings and recommendations. The Committee drew largely from this research to develop its Legislative Findings and

Recommendations. Appendix C contains a summary of the findings and recommendations by $C^3E$ based upon its research and analysis of the State's economic development incentive programs. The summary may also be accessed on the Committee's website.

In addition to the research conducted by $C^3E$, the Joint Select Committee on Economic Development Incentives instructed the Fiscal Research Division of the North Carolina General Assembly to compile a report that lists and quantifies all economic development incentives offered by the State. This research resulted in the *Economic Development Inventory* (EDI). A copy of the EDI may be found on the Fiscal Research Division's website, http://www.ncleg.net/FiscalResearch/ and on the Committee's website as one of the materials distributed at its January 22, 2008, meeting.

The EDI estimates the level of State spending identified as directly related to an economic development purpose at $1.29 billion for fiscal year 2006-2007. The EDI covers three spending areas: tax incentives, General Fund appropriations, and Transportation:

- Tax incentives accounted for more than $1.1 billion, or 90%, of the economic development spending in fiscal year 2006-2007. Although the Bill Lee Act tax credits, today known as the Article 3J tax credits, are the most commonly recognized economic development tax incentives in the State, the majority of the expenditures in the tax incentive category are attributable to tax relief efforts outside the Bill Lee Act credits. The largest category of other tax incentives identified as having an economic development purpose are exemptions from and reductions to a business' sales and use tax liability.
- General Fund appropriations accounted for $117.5 million of State spending on economic development in fiscal year 2006-2007.
  - The Department of Commerce is the primary State agency for economic development in the State and the largest recipient of this State spending. A portion of the funds appropriated to Commerce for economic development are used to fund direct incentive programs administered by it. The largest of these direct incentive programs are the Job Development Investment Grant Program and the One North Carolina Fund. The funding appropriated to Commerce also provides State aid to non-State entities that have an economic development purpose, including the N.C. Rural Economic Development Center, the N.C. Biotechnology Center, and the Regional Economic Development Commissions. Golden LEAF Foundation is another nonprofit entity whose mission includes job training and infrastructure for economic development purposes. Golden LEAF Foundation was created as part of the Master Settlement Agreement and it receives its funding from payments made by cigarette manufacturers under that Agreement. The Master Settlement Agreement resulted from a lawsuit brought by states against cigarette manufacturers. The EDI does not include funding for this nonprofit because the General Assembly allows the funding to flow directly to the nonprofit rather than to the General Assembly for appropriation to the nonprofit.

- The North Carolina Community College System (NCCCS) is the State's lead agency for providing workforce development training. An educated and skilled workforce is one of the key attributes that attracts business location and investment in a certain area. The Customized Training Programs are the primary recipients of the funds allocated to NCCCS for economic development purposes.
- The Board of Governors for the University of North Carolina system (UNC) has made economic development one of its six strategic priorities. Although the State's total investment in education promotes economic development, the EDI highlights only those education programs that either directly benefit certain companies that the State seeks to attract or retain, or provide support to businesses through technical assistance and research. UNC has three statewide economic development support programs funded from General Fund appropriations: the North Carolina Cooperative Extension Service, the Industrial Extension Service, and the Small Business Technology Development Center.

- Transportation projects accounted for more than $67 million of State spending on economic development in fiscal year 2006-2007. There is a close relationship between the strength of a region's transportation infrastructure and its economic development potential. The Department of Transportation has several programs explicitly created to encourage and support economic development.

The Committee solicited testimony from many different people representing various perspectives on economic development. All of the information gathered by the Committee may be accessed on its website.

- The speakers representing State, regional, and local government interests included the following: Jim Fain, Secretary of the N.C. Department of Commerce; Libby Smith, Staff to the N.C. Economic Development Board; Willa Dickins, Economic & Workforce Development, NCCCS; Leslie Boney, Economic Development, Research & Strategic Planning, UNC; Valeria Lee, Golden LEAF Foundation; Patrick Woodie, N.C. Rural Economic Development Center; Tony Almeida, Charlotte Regional Chamber; John Hauser, Wilkes Community College; Donny Hicks, Gaston County Economic Development Commission; Derwick Paige, Winston-Salem; Scott Sauer, Sampson County; and Bonnie Renfro, N.C. Economic Developer's Association.
- Bill Scheweke, Frank DiSilvestro, and Brian Taylor, researchers with the Center for Economic Development, presented their findings and recommendations concerning North Carolina's budget for economic development, local economic development incentives in North Carolina, and the effectiveness of North Carolina's current tax incentives to create jobs in disadvantaged and distressed areas of the State.
- Jonathan Morgan, an assistant professor in the UNC School of Government, summarized the types of incentives offered by local governments in North Carolina.
- Roby Sawyers, a professor at N.C. State University, provided the Committee an assessment of reducing the corporate tax rates as an alternative to statutory tax incentives.

- C$^3$E kept the Committee apprised of its findings with presentations throughout the life of the Committee.
- As part of its research, C$^3$E organized an *Economic Development Incentives Symposium* and invited the Committee members to attend. Five world-renown academic experts in the field of economic development joined about 60 North Carolinians in a four-hour examination of incentives in general and, more specifically, the use of incentives in North Carolina. The panel of experts included the following: Dr. Michael Luger, Dean, Manchester Business School, Manchester, England; Dr. Ed Feser, Professor of Urban and Regional Planning, University of Illinois at Urbana-Champaign; Dr. Dagney Faulk, Director of Research, Center for Business and Economic Research, Ball State University; Brian Dabson, President, Rural Policy Research Institute, and Professor, Truman School of Public Affairs, University of Missouri, Columbia; and Dr. Timothy Bartik, Senior Economist, Upjohn Institute for Employment Research, Kalamazoo, Michigan. All of the panelists commended the North Carolina General Assembly on its willingness to reexamine its policy on incentives. The panelists drew the following conclusions, based on national research:
    - The effectiveness of economic development incentives is mixed and the cost of incentives is often expensive.
    - Evidence suggests that companies may 'game' the system by bidding one state or community against another.
    - Incentives cannot replace traditional business growth factors, such as good infrastructure, trained workforces, and quality lifestyles.
    - Statutory tax incentives appear to be the least effective form of economic development policy.
    - Discretionary incentives may be used more strategically and effectively than statutory tax incentives.
    - Human resource incentives, such as customized job training, provide the best return to the community and appear to be most important in business location decisions.
    - Targeting incentives to distressed areas makes policy sense, but there is scant evidence that they make a difference in location decisions.
    - Using incentives in growing urban areas is of marginal importance in business location decisions and may contribute to growth management problems in those areas.
    - Replacing incentives with adjustments in the corporate tax structure should be considered.
    - Data, information, and research are critical in deciding how to best allocate tax expenditures and General Fund appropriations among the various economic development incentive programs.

# FINDINGS AND RECOMMENDATIONS

For many decades, North Carolina's economic development strategy consisted of its good transportation system, its renowned Community College job training programs and UNC system, and its low property tax and utility rates. North Carolina was a late entrant in establishing economic development statutory and discretionary incentive programs relative to many other southern states. Economic development incentives cannot compensate for inadequate workforce or infrastructure. However, when other location factors are relatively equal and the prospects are highly mobile, economic development incentives can make a difference. Economic development incentives are most persuasive when the incentives are tailored to a company's specific priorities, the benefit of the incentives is front-loaded, and the incentives are offered early in a company's decision-making process. Economic development incentives have the greatest economic benefit to the State when the company employs local residents, has a catalytic effect on local suppliers, is in a job-growing mode, and creates local wealth.

Despite its commitment to economic development incentives, North Carolina has limited resources to expend for this purpose. Spending on economic development includes not only the cost of statutory and discretionary incentive programs, but also General Fund appropriations for economic development purposes to Commerce, non-State entities, NCCCS, and UNC, and transportation infrastructure expenditures for economic development purposes.

The State's expenditures for economic development purposes are analogous to an investor's portfolio. The totality of these expenditures represents the taxpayers' investment in the State's present and future economic growth and vitality. How the State allocates its spending among the different economic development purposes represents its economic development investment portfolio. The return on various economic development expenditures, like the return on various investments, varies widely. The Committee finds that North Carolina's current portfolio of economic development spending relies too heavily on statutory tax incentives. The Committee recommends that the State redefine its economic development objectives and reallocate its spending on economic development to meet those objectives in a more effective, targeted, and measurable manner.

Specifically, the Committee makes the following findings and recommendations, based upon the evidence and analysis of $C^3E$ findings and recommendations to it. Appendix C contains a summary of the findings and recommendations by $C^3E$. The summary may also be accessed on the Committee's website.

## *REPEAL ARTICLE 3J TAX CREDITS*

- **FINDING 1:** The current statutory tax credits are not tied to the State's strategic economic development goals.
- **FINDING 2:** Statutory tax credits are the least effective means of incenting companies to locate in a state and the most costly.
- **RECOMMENDATION 1:** Eliminate the statutory tax credits.

## *PHASE DOWN THE CORPORATE INCOME TAX RATE*

- **FINDING 3:** Both incented companies and non-incented companies prefer a corporate income tax rate reduction as an alternative to selected tax credits.
- **FINDING 4:** A corporate rate reduction would bring North Carolina's corporate income tax rate closer to the corporate income tax rates of its surrounding states.
- **RECOMMENDATION 2:** Utilize the savings from elimination of statutory tax credits to support a phased reduction of the corporate income tax rate to a revenue neutral and more competitive tax rate.

## *IDENTIFY ECONOMIC DEVELOPMENT GOALS*

- **FINDING 5:** The objective of the current economic development incentives is not clear.
- **FINDING 6:** It is difficult to measure the success of economic development incentives if there is uncertainty as to what is expected to be achieved by those incentives.
- **FINDING 7:** Marketing the State as a business location can be a key component of a successful economic development strategy if the marketing consists primarily of outreach and visits to industries, particularly those that are in an early stage of their growth or are strategically important to the State.
- **RECOMMENDATION 3:** Establish clear economic development objectives to be achieved through economic development incentives:
  - Increase development in an industry identified by Commerce as being strategically important to the State.
  - Increase the location of businesses in economically disadvantaged areas. The term 'economically disadvantaged area' should be more flexible and time sensitive than the current county tier structure.

## *EXPAND AND EXTEND THE JOB DEVELOPMENT INVESTMENT GRANT PROGRAM, WITH INCREASED EMPHASIS ON ECONOMICALLY DISADVANTAGED AREAS*

- **FINDING 8:** Discretionary incentive programs provide a better opportunity for strategic economic development targeting than statutory tax credits.
- **FINDING 9:** Discretionary incentives are more effective than tax credits at inducing companies to create jobs and investment.
- **FINDING 10:**Discretionary incentives are based upon a set of defined metrics that is used prior to approval and disbursement of funds.
- **RECOMMENDATION 4:** Expand the Job Development Incentive Grant Program in the number of annual projects and the maximum annual threshold:

- Increase the cap from 25 projects a year to 30 projects a year and require the additional five projects to be located in an economically disadvantaged area.
- Increase the statutory ceiling from $15 million a year to $25 million a year.
- Extend the program's sunset from 2010 to 2016.

## *EMPHASIZE AN APPROPRIATE WAGE STANDARD*

- **FINDING 11:** The absence of a wage standard in the State's current discretionary incentive programs undermines their economic benefit.
- **RECOMMENDATION 5:** Include an appropriate wage standard in the discretionary incentive programs by incorporating the wage standard used for the current statutory tax incentives, but waive the standard in economically disadvantaged areas to better achieve the objective of increasing the location of businesses in these areas.

## *EMPHASIZE STRONGER PREFERENCE FOR INCUMBENT WORKFORCE UTILIZATION*

- **FINDING 12:** Incentives have the greatest impact when the incented company employs local residents, especially displaced workers.
- **RECOMMENDATION 6:** Incorporate a 'first-source' hiring principle in the discretionary incentive programs.

## *PROVIDE ONGOING LEGISLATIVE OVERSIGHT OF ECONOMIC DEVELOPMENT PRIORITIES AND PERFORMANCE*

- **FINDING 13:** North Carolina's leaders lack objective data analysis on the state of North Carolina's economy and the performance of the State's economic development programs.
- **FINDING 14:** North Carolina has the available data to better track the performance of the State's economy and the State's economic development programs.
- **RECOMMENDATION 7:** Provide for ongoing collection and analysis of strategic economic status data at the State and regional levels as the basis for economic development performance assessment.
- **RECOMMENDATION 8:** Institute a legislative oversight function specifically to establish economic development priorities and to assess performance of State and regional economic development entities.
- **RECOMMENDATION 9:** Broaden the scope of the Revenue Laws Study Committee to incorporate the study of economic development incentives and the continual performance assessment of economic development incentives and the entities that implement the incentives.

# PROPOSED LEGISLATION

A RECOMMENDATION OF THE JOINT SELECT COMMITTEE ON ECONOMIC DEVELOPMENT INCENTIVES TO THE 2009 REGULAR SESSION OF THE 2009 GENERAL ASSEMBLY

**AN ACT TO REALLOCATE NORTH CAROLINA'S ECONOMIC INCENTIVES PORTFOLIO TO MAKE IT MORE EFFECTIVE, TARGETED, AND MEASURABLE BY ELIMINATING INEFFECTIVE TAX CREDITS, REDUCING THE CORPORATE INCOME TAX RATE, TARGETING DISTRESSED AREAS AND STRATEGIC INDUSTRIES, AND PROVIDING ONGOING LEGISLATIVE ASSESSMENT OF THE STATE'S ECONOMIC INCENTIVES PORTFOLIO.**

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**SHORT TITLE:** *Make Better Use of Economic Incentives.*

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**BRIEF OVERVIEW:** The proposal would do the following:

- Repeal Article 3J tax credits.
- Utilize the savings from repealing Article 3J tax credits to phase down the corporate income tax rate to a revenue neutral rate of 6.6%. The rate would be reduced from 6.9% to 6.8% for taxable year 2011; to 6.7% for taxable year 2012; and to 6.6% for taxable years after 2012.
- Identify the economic development goals of the State as:
    - Increasing development in an industry identified by Commerce as being strategically important to the State.
    - Increasing location of businesses in economically disadvantaged areas of the State.
- Reauthorize and modify the Job Development Investment Grant Program by:
    - Expanding the number of annual projects from 25 to 30, with the additional five projects targeted to economically disadvantaged areas.
    - Increasing the annual ceiling from $15 million to $25 million.
    - Extending the sunset from 2010 to 2016.
    - Incorporating an appropriate wage standard and waiving the standard for projects located in an economically disadvantaged area.
    - Incorporating a 'first-source' hiring principle.
- Provide periodic review of economic development incentives by broadening the scope of the Revenue Laws Study Committee to incorporate the study of economic development incentives and the continual performance assessment of economic development incentives and the entities that implement the incentives.

**GENERAL ASSEMBLY OF NORTH CAROLINA**
**SESSION 2009**

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**BILL DRAFT 2009-RBxz-8 [v.2] (01/13)**

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)**
**1/21/2009 2:20:32 PM**

Short Title: Make Better Use of Economic Incentives. (Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REALLOCATE NORTH CAROLINA'S ECONOMIC INCENTIVES PORTFOLIO TO MAKE IT MORE EFFECTIVE, TARGETED, AND MEASURABLE BY ELIMINATING INEFFECTIVE TAX CREDITS, REDUCING THE CORPORATE INCOME TAX RATE, TARGETING DISTRESSED AREAS AND STRATEGIC INDUSTRIES, AND PROVIDING ONGOING LEGISLATIVE ASSESSMENT OF THE STATE'S ECONOMIC INCENTIVES PORTFOLIO.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-129.82(a) reads as rewritten:

"(a) Sunset. – This Article is repealed effective for business activities that occur on or after ~~January 1, 2011.~~January 1, 2009."

**SECTION 2.** G.S. 105-130.3 reads as rewritten:

"**§ 105-130.3. Corporations.**

A tax is imposed on the State net income of every C Corporation doing business in this State. An S Corporation is not subject to the tax levied in this section. The tax is a percentage of the taxpayer's State net income computed as follows:

| Income Years Beginning | Tax |
|---|---|
| ~~In 1997~~ | ~~7.5%~~ |
| ~~In 1998~~ | ~~7.25%~~ |
| ~~In 1999~~ | ~~7%~~ |
| ~~After 1999~~ | ~~6.9%.~~ |
| Before 2011 | 6.9% |
| In 2011 | 6.8% |
| In 2012 | 6.7% |
| After 2012 | 6.6%. " |

**SECTION 3.** G.S. 143B-437.51 is amended by adding a new subdivision to read:

"**§ 143B-437.51. Definitions.**

The following definitions apply in this Part:

…

(4b) Economically disadvantaged area. – An area that is in economic distress, as defined in G.S. 143B-434.01.

…"

**SECTION 4.** G.S. 143B-437.52 reads as rewritten:

"**§ 143B-437.52. Job Development Investment Grant Program.**

(a) Program. – There is established the Job Development Investment Grant Program to be administered by the Economic Investment Committee. In order to foster job creation and investment in the economy of this State, the Committee may enter into negotiated agreements with businesses to provide grants in accordance with the provisions of this Part. The Committee, in consultation with the Attorney General, shall develop criteria to be used in determining whether the conditions of this section are satisfied and whether the project described in the application is otherwise consistent with the purposes of this Part. Before entering into an agreement, the Committee must find that all the following conditions are met:

(1) The project proposed by the business will create, during the term of the agreement, a net increase in employment in this State by the business.

(2) ~~The project will benefit the people of this State by increasing opportunities for employment and by strengthening this State's economy by, for example, providing worker training opportunities, constructing and enhancing critical infrastructure, increasing development in strategically important industries, or increasing the State and local tax base.~~The project proposed by the business meets at least one of the following economic development objectives:

a. It will increase development in an industry identified by the Department of Commerce as strategically important to the State.

b. It will locate in an economically disadvantaged area of the State.

(3) ~~The project is consistent with economic development goals for the State and for the area where it will be located.~~

(4) A grant under this Part is necessary for the completion of the project in this State.

(5) The total benefits of the project to the State outweigh its costs and render the grant appropriate for the project.

(b) ~~Cap.~~ Cap and Priority. – The maximum number of agreements the Committee may enter into each calendar year is ~~25.~~30. The Committee may enter into 25 agreements during this period for grants for projects located anywhere in the State and may enter into an additional five agreements during this period only for grants for projects located in an economically disadvantaged area of the State.

(c) Ceiling. – ~~Except as provided in this section, the~~ The maximum ~~amount of~~ total annual liability for grants for agreements entered into in any single calendar year, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, may not exceed ~~fifteen million dollars ($15,000,000).~~ twenty-five million dollars ($25,000,000).~~The maximum amount of total annual liability for grants for agreements entered into in 2006, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, may not exceed thirty million dollars ($30,000,000).~~ No agreement may be entered into that, when considered together with other existing agreements entered into during that calendar year, could cause the

State's potential total annual liability for grants entered into in that calendar year to exceed this amount.

(d) Measuring Employment. – For the purposes of subdivision (a)(1) of this section and G.S. 143B-437.51(5), 143B-437.51(7), and 143B-437.57(a)(11), the Committee may designate that the increase or maintenance of employment is measured at the level of a division or another operating unit of a business, rather than at the business level, if both of the following conditions are met:

(1) The Committee makes an explicit finding that the designation is necessary to secure the project in this State.

(2) The agreement contains terms to ensure that the business does not create eligible positions by transferring or shifting to the project existing positions from another project of the business or a related member of the business."

**SECTION 5.** G.S. 143B-437.53(d) is re-enacted and reads as rewritten:

"(d) ~~Wage Standard.~~ Employment Requirements. – In order for a business to be eligible for a grant under this Part, the average wage of all jobs at the location with respect to which a grant is made must ~~meet the wage standard set out in G.S. 105-129.4(b). If a project is to be located at more than one location, the average wage of all jobs at a location must meet the wage standard set out in G.S. 105-129.4(b) in order for that location to be included in the agreement.~~ pay an average weekly wage that is at least equal to the lesser of one hundred ten percent (110%) of the average wage for all insured private employers in the State and ninety percent (90%) of the average wage for all insured private employers in the county. The Department of Commerce must annually publish the wage standard. A business locating in an economically disadvantaged area is not required to satisfy this wage standard.

For a business to be eligible for a grant under this Part, the business must agree to give the Employment Security Commission information on the positions it plans to create, as defined by the agreement. The business must agree to interview candidates referred to it by the Commission before seeking other possible candidates for the positions. The business is not under any obligation to hire the candidates referred to it by the Commission."

**SECTION 6.** G.S. 143B-437.54(a) reads as rewritten:

"(a) Membership. – The Economic Investment Committee is established. The Committee consists of the following members:

(1) The Secretary of Commerce.

(2) The Secretary of Revenue.

(3) The Director of the Office of State Budget and Management.

(3a) The Chair of the Economic Development Board.

(4) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.

(5) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.

The members of the Committee appointed by the General Assembly may not be members of the General Assembly. The members of the Committee appointed by the General Assembly serve two-year terms that begin upon appointment."

**SECTION 7.** G.S. 143B-437.62 reads as rewritten:

"**§ 143B-437.62. Expiration.**

The authority of the Committee to enter into new agreements expires ~~January 1, 2010.~~ January 1, 2016."

**SECTION 8.(a)** Article 12L of Chapter 120 of the General Statutes reads as rewritten:

"Article 12L.

~~Revenue Laws~~Finance and Economic Development Study Committee."

**SECTION 8.(b)** G.S. 120-70.105 reads as rewritten:

**§ 120-70.105. Creation and membership of the ~~Revenue Laws~~ Finance and Economic Development Study Committee.**

(a) Membership. – The ~~Revenue Laws~~ Finance and Economic Development Study Committee is established. The Committee consists of ~~16~~ 20 members as follows:

(1) ~~Eight~~ Ten members appointed by the President Pro Tempore of the Senate; the persons appointed may be members of the Senate or public members.

(2) ~~Eight~~ Ten members appointed by the Speaker of the House of Representatives; the persons appointed may be members of the House of Representatives or public members.

(b) Terms. – Terms on the Committee are for two years and begin on January 15 of each odd-numbered year, except the terms of the initial members, which begin on appointment. Legislative members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until a successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment."

**SECTION 8.(c)** G.S. 120-70.106 reads as rewritten:

**§ 120-70.106. Purpose and powers of Committee.**

(a) The ~~Revenue Laws~~Finance and Economic Development Study Committee may:

(1) Study the revenue laws of North Carolina and the administration of those laws.

(2) Review the State's revenue laws to determine which laws need clarification, technical amendment, repeal, or other change to make the laws concise, intelligible, easy to administer, and equitable.

(3) Call upon the Department of Revenue to cooperate with it in the study of the revenue laws.

(4) Study the economic development incentives offered by the State, units of local governments, and other entities to determine which incentives promote the economic development objectives of the State and which ones need to be clarified, amended, repealed, or changed.

(5) To assess the performance of economic development incentives and the entities that implement the incentives to determine the extent to which they further the economic development policies and priorities identified by the General Assembly.

(6) Call upon the Department of Commerce to cooperate with it in the study of economic development incentives.

(7) Report to the General Assembly at the beginning of each regular session concerning its determinations of needed changes in the State's revenue ~~laws.~~laws and economic development policies and priorities.

These powers, which are enumerated by way of illustration, shall be liberally construed to provide for the maximum review by the Committee of all revenue law and economic development matters in this State.

(b) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee. When a recommendation of the Committee, if enacted, would result in an increase or decrease in State revenues, the report of the Committee must include an estimate of the amount of the increase or decrease.

(c) The ~~Revenue Laws~~Finance and Economic Development Study Committee must review the effect Article 42 of Chapter 66 of the General Statutes, as enacted by S.L. 2006-151, has on the issues listed in this section to determine if any changes to the law are needed:

(1) Competition in video programming services.

(2) The number of cable service subscribers, the price of cable service by service tier, and the technology used to deliver the service.

(3) The deployment of broadband in the State.

The Committee must review the impact of this Article on these issues every two years and report its findings to the North Carolina General Assembly. The Committee must make its first report to the 2008 Session of the North Carolina General Assembly."

**SECTION 8.(d)** G.S. 120-70.107 reads as rewritten:

"**§ 120-70.107. Organization of Committee.**

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the ~~Revenue Laws~~ Finance and Economic Development Study Committee. The Committee shall meet upon the joint call of the cochairs.

(b) A quorum of the Committee is ~~nine~~ eleven members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) The Committee shall be funded by the Legislative Services Commission from appropriations made to the General Assembly for that purpose. Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1 and G.S. 138-5. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee."

**SECTION 8.(e)** Article 12O of Chapter 120 of the General Statutes is repealed.

**SECTION 9.** Sections 1 of this act is effective when it becomes law. The remainder of this act becomes effective July 1, 2009.

## <u>Legislative Proposal 2009-RBxz-8:</u>
## ***<u>Make Better Use of Economic Incentives</u>***

- **Repeal Article 3J tax credits.** *(Section 1)*
  - UNC findings establish:
    - Statutory tax credits are not tied to NC's strategic economic development goals
    - Statutory tax credits least effective, difficult to evaluate effectiveness, most expensive
  - Implements UNC recommendation of eliminating statutory credits.

- **Phase down the corporate income tax rate.** *(Section 2)*
  - UNC findings establish:
    - Both incented and non-incented companies prefer a corporate rate reduction as an alternative to selected tax credits
    - Corporate rate reduction would bring NC 'in-line' with competitor states
  - Implements UNC recommendation of utilizing savings from elimination of statutory tax credits to support phased reduction of corporate tax rate to a competitive neutral rate
    - The UNC draft report recommended a reduction in the corporate tax rate from 6.9% to 6.5%.
    - Based upon an estimate provided by the Fiscal Research Division, the proposal reduces the rate from 6.9% to the revenue-neutral rate of 6.6%. The reduction is fully phased in by taxable year 2013.

- **Identify economic development goals:** *(Section 4)*
  - UNC findings establish:
    - Current economic development goals unclear
    - Difficult to measure success of economic development incentives if uncertainty as to what is expected to be achieved by those incentives

- Implements UNC recommendation that State establish clear economic development goals by setting the goals as:
  - Increasing development in an industry identified by Commerce as being strategically important to the State
  - Increasing location of businesses in economically disadvantages areas

- **Reauthorize and modify JDIG:** *(Sections 3 through 7)*
  - UNC findings establish:
    - Discretionary incentive programs provide a better opportunity for strategic economic development targeting
    - Discretionary incentives are likely more effective than tax credits at inducing companies to create jobs and investment
    - Discretionary incentives are based upon a set of defined metrics that is used prior to approval and disbursement of funds
    - Absence of wage standard can undermine economic benefit
    - Incentives have greatest impact when business employs local residents, especially displaced workers
  - Implements the following UNC recommendations:
    - Expand JDIG program in number of annual projects and maximum annual threshold
      - Increases cap from 25 projects to 30 projects
      - Increases statutory ceiling from $15 million to $25 million
      - Extends sunset from 2010 to 2016
    - Increase amounts allocated under JDIG for economically disadvantaged areas
      - The five additional grants allowed must be for projects located in an economically disadvantaged area
    - Emphasize an appropriate wage standard
      - Incorporates the wage standard used by for the statutory tax credits
      - Waives wage standard for a project located in an economically disadvantaged area.
    - Emphasize stronger preference for employing local residents, especially displaced workers
      - Incorporates a 'first-source' hiring principle

        - Emphasize consistency with strategically important industry clusters
            - Adds the chair of the Economic Development Board to the Economic Investment Committee

- **Periodic review of economic development incentives.** *(Section 8)*
    - UNC findings establish:
        - NC's leaders lack objective data analysis on the state of NC's economy and the performance of the State's economic development programs
        - NC has the available data to better track the performance of the State's economy and the State's economic development programs
    - Implements the following UNC recommendations:
        - Provide for ongoing collection and analysis of strategic economic status data at the State and regional levels as basis for economic development performance assessment
        - Institute a legislative oversight function specifically to establish economic development priorities and assess performance of State and regional economic development entities
    - Broadens the scope of the Revenue Laws Study Committee to incorporate the study of economic development incentives and the continual performance assessment of economic development incentives and the entities that implement the incentives

# AUTHORIZING DOCUMENTATION

# AND

# MEMBERSHIP

**Marc Basnight**
**President Pro Tempore,**
**North Carolina Senate**

**Joe Hackney**
**Speaker,**
**North Carolina House**
**of Representatives**

Raleigh, North Carolina 27601-1096

## JOINT SELECT COMMITTEE ON ECONOMIC DEVELOPMENT INCENTIVES

**Section 1**. The **Joint Select Committee on Economic Development Incentives** (hereinafter "Committee") is established by the President Pro Tempore of the Senate and the Speaker of the House of Representatives pursuant to Rule 31 of the Rules of the Senate of the 2007 General Assembly and Rule 26(a) of the Rules of the House of Representatives of the 2007 General Assembly, as the combination of a Senate Select Committee and a House Select Committee that meet together and function as a joint committee. The Committee is authorized to meet during the session and, pursuant to G.S. 120-19.6, is authorized to meet between sessions and during recesses of the General Assembly.

**Section 2**. The Committee consists of the 22 members listed below, 11 of whom are appointed by the President Pro Tempore of the Senate and 11 of whom are appointed by the Speaker of the House of Representatives. A cochair or other member of the Committee continues to serve until a successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment. The Committee and the terms of the members expire when the Committee submits a final report to the General Assembly. Members serve at the pleasure of the appointing officer.

| **President Pro Tempore Appointments** | **Speaker of the House of Representatives Appointments** |
|---|---|
| Senator David Hoyle, Co-Chair | Representative Bill Owens, Co-Chair |
| Senator Tony Foriest, Co-Chair | Representative Jennifer Weiss, Co-Chair |
| Senator Pete Brunstetter | Representative Alma Adams |
| Senator Dan Clodfelter | Representative Nelson Cole |
| Senator Janet Cowell | Representative Bill Daughtridge |
| Senator Kay Hagan | Representative Pryor Gibson |
| Senator Fletcher Hartsell | Representative Mitch Gillespie |
| Senator Clark Jenkins | Representative Hugh Holliman |
| Senator John Kerr | Representative Paul Luebke |
| Senator Vernon Malone | Representative Joe P. Tolson |
| Senator R.C. Soles | Representative William L. Wainwright |

**Section 3.** The Committee may examine and review the following:

1. The interaction between economic incentives and other economic development tools in North Carolina and in other states.
2. The role of State and local governments in recruiting businesses.
3. The extent to which tax and other incentives have promoted economic development in the State and at what cost.
4. Ways to ensure that legislators have adequate information about potential projects when presented with legislation to give incentives for the project.
5. Whether companies that receive incentives should be required to submit annualized, cumulative, and comprehensive reports to the Joint Legislative Commission on Governmental Operations.
6. Methods to ensure that clawback provisions adequately protect North Carolina's investment.
7. Any other information the Committee finds helpful in its deliberations.

**Section 4.** The Committee shall meet upon the call of its House and Senate cochairs. A quorum of the Committee shall be a majority of its members.

**Section 5**. The Committee, while in discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes. The Committee may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

**Section 6**. Members of the Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1.

**Section 7**. The expenses of the Committee shall be considered expenses incurred for the joint operation of the General Assembly. Individual expenses of $5,000 or less, including per diem, travel, and subsistence expenses of members of the Committee, and clerical expenses shall be paid upon the authorization of a cochair of the Committee. Individual expenses in excess of $5,000 shall be paid upon the written approval of a cochair of the Legislative Services Commission. All expenses of the Committee shall be paid from the Reserve for Studies of the Legislative Services Commission.

**Section 8**. The Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work. The Director of Legislative Assistants of the House of Representatives and the Director of Legislative Assistants of the Senate shall assign clerical support staff to the Committee.

**Section 9.** The Committee may meet at various locations around the State to promote greater public participation in its deliberations.

**Section 10.** The Committee may submit recommendations based on the results of its study, including any proposed legislation, to the 2007 Regular Session of the General Assembly. The Committee must submit its final recommendations based on the results of its study, including any proposed legislation, on or before the convening of the 2008 Regular Session of the General Assembly. The Committee shall terminate on December 31, 2008, or upon the filing of its final recommendations, whichever occurs earlier.

Effective this 2nd day of March, 2007.

| | |
|---|---|
| Marc Basnight | Joe Hackney |
| President Pro Tempore | Speaker |

# APPENDIX B

# OVERVIEW OF COMMITTEE AGENDA ITEMS & SPEAKERS

## Agenda Items and Speakers

*October 24, 2007*
10:00 am, Room 544 LOB

- Committee Charge, *Cindy Avrette, Research Division, NCGA*
- Economic Incentives, *Jonathan Morgan, Assistant Professor of Public Administration and Government, UNC School of Government*
- Overview of Economic Development Incentives in North Carolina, *Barry Boardman, Fiscal Research Division, NCGA*

*December 11, 2007*
10:00 am, Room 544 LOB

- Economic Development Inventory Report, *Barry Boardman, Fiscal Research Division, NCGA*
- Ways to Measure Economic Incentive Success, *Jason Jolley, Research Director, UNC Center for Competitive Economies ($C^3E$), Kenan Institute, Kenan-Flagler Business School*
- Overview of the Committee's Work Plan, *Jason Jolley, Research Director, $C^3E$*

*January 22, 2008*
10:00 am, Room 544 LOB

- Contract with the UNC Center for Competitive Economies – Work Plan and Timeline of Deliverables
- Defining Performance Measures, *Jason Jolley, Research Director, $C^3E$*
- Evolution of Bill Lee Act, *Cindy Avrette, Research Division, NCGA*
- Experience with Bill Lee Act Credits, *Brent Lane, Executive Director, $C^3E$*

*February 27, 2008*
10:00 am, Room 544 LOB

- Department of Commerce: Its Role in Economic Development, *Secretary of Commerce, Jim Fain*
- Economic Development Board: Its Role in Economic Development, *Elizabeth Smith, Policy Development Analyst, Staff to the Economic Development Board*
- Workforce Development: Its Role in Economic Development, *Willa Dickens*
- The University of North Carolina: Its Role in Economic Development, *Leslie Boney*
- Golden Leaf Foundation: Its Role in Economic Development, *Valeria L. Lee, President, Golden Leaf Foundation*
- The Role of Performance-Based Financial Incentives, *Secretary Jim Fain*

*April 10, 2008*
10:00 am, Room 414 LOB

- Analysis of Local Government Incentives for Economic Development, *Jonathan Morgan, Assistant Professor of Public Administration and Government, UNC School of Government*
- North Carolina Rural Economic Development Center – Its Role in Economic Development, *Patrick Woodie, Vice President of Rural Development Programs, NC Rural Economic Development Center, Inc.*
- North Carolina Regional Partnerships – Their Role in Economic Development, *Tony Almeida, Chair-Elect, Charlotte Regional Partnership; Vice President for Business Relations and Economic Development, Duke Energy*
- Local Governments – Their Role in Economic Development
    - *John Hauser, Dean, Industrial, Engineering and CIT Division, Wilkes Community College*
    - *Donny Hicks, Executive Director, Gaston County Economic Development Commission*
    - *Derwick Paige, Deputy City Manager, Winston-Salem*
    - *Scott Sauer, County Manager, Sampson County*

*May 8, 2008*
10:00 am, Room 544 LOB

- At What Cost? North Carolina's Budget for Economic Development, *Frank DiSilvestro, Researcher at Corporation for Enterprise Development (CFED), Graduate Student at Terry Sanford Institute for Public Policy, Duke University, and William Scheweke, Vice President of Learning and Innovations, Durham Office, CFED*
- Corporate Tax Incentives v. Corporate Tax Rate Reduction, *Roby Sawyer, Professor in the Department of Accounting, North Carolina State University*
- Incentive Case Studies, *Don Schronce,* $C^3E$
- Status of the Analysis of Incented Companies, *Brent Lane, Executive Director,* $C^3E$

*December 16, 2008*
10:00 am, Room 414 LOB

- Reports by the Center for Economic Development (CFED)
    - "Local Economic Development Incentives in North Carolina", *Brian Taylor, Researcher at CFED, Graduate student at Department of City and Regional Planning, University of North Carolina-Chapel Hill*
    - "Business Incentives and North Carolina's Tier 1 Counties: Have They Worked?", *William Schweke, CFED, and Frank Disilvestro, CFED*

- Report on the Economic Development Incentives Symposium, sponsored by the University of North Carolina Center for Competitive Economies, *Jesse White, Director, Office of Economic and Business Development, UNC-Chapel Hill*
- Assessment of a Corporate Tax Rate Reduction as an Alternative Incentive, *Roby Sawyers, Professor in the Department of Accounting, North Carolina State University*
- Report Findings – UNC Center for Competitive Economies ($C^3E$), Kenan Institute, Kenan-Flagler Business School, *Brent Lane, Executive Director,* $C^3E$*, and Jason Jolley, Research Director,* $C^3E$

*January 13, 2009*
10:00 am, Room 544 LOB

- Introduction of new Commerce Secretary and Deputy Secretary, *The Honorable Keith Crisco, Secretary of Commerce, and The Honorable Dale Carroll, Deputy Secretary of Commerce*
- Report Findings and Recommendations by the UNC Center for Competitive Economies (C3E), Kenan Institute, Kenan-Flagler Business School, *Brent Lane, Executive Director, C3E*

# APPENDIX C

# AN EVALUATION OF NORTH CAROLINA'S ECONOMIC DEVELOPMENT INCENTIVE PROGRAMS: A SUMMARY OF FINDINGS

## PREPARED FOR THE NORTH CAROLINA GENERAL ASSEMBLY, JOINT SELECT COMMITTEE ON ECONOMIC DEVELOPMENT INCENTIVES

## PREPARED BY THE UNC CENTER FOR COMPETITIVE ECONOMIES