

§ 143B-437.56. Calculation of maximum grants; factors considered.

(a) Maximum Percentage. – Subject to the provisions of subsection (d) of this section, the amount of the grant awarded in each case shall be a percentage of the withholdings of positions governed by the agreement for a period of years. The percentage used to determine the amount of the grant shall be based on criteria developed by the Committee, in consultation with the Attorney General, after considering, at a minimum, (i) the number of positions governed by the agreement to be created, (ii) the expected duration of those positions, (iii) the type of contribution the business can make to the long-term growth of the State's economy, (iv) the amount of other financial assistance the project will receive from the State or local governments, (v) the total dollar investment the business is making in the project, (vi) whether the project utilizes existing infrastructure and resources in the community, (vii) whether the project is located in a development zone, (viii) the number of positions governed by the agreement that would be filled by residents of a development zone, and (ix) the extent to which the project will mitigate unemployment in the State and locality. The percentage shall be no more than the following:

- (1) General rule. – Eighty percent (80%) of the withholdings of eligible positions for a development tier one area and seventy-five percent (75%) of the withholdings of eligible positions for any other area.
- (2) High-yield project. – Notwithstanding the percentage in subdivision (1) of this subsection, if the project is a high-yield project, the business has met the investment and job creation requirements, and, for three consecutive years, the business has met all terms of the agreement, the amount of the grant awarded shall be no more than one hundred percent (100%) of the withholdings of eligible positions for each year the business maintains the minimum job creation requirement and meets all terms of the agreement. A business that fails to maintain the minimum job creation requirement or meet all terms of the agreement required to qualify as a high-yield project will be disqualified from receiving the enhanced percentage of withholdings under this subdivision and will have the applicable percentage set forth in subdivision (1) of this subsection applied in the year in which the failure occurs and all remaining years of the grant term.
- (3) Transitional project. – Notwithstanding the percentage in subdivision (1) of this subsection, a transitional project shall be treated as a high-yield project pursuant to subdivision (2) of this subsection until the business meets the requirements for Phase II, at which time the amount of the grant awarded shall be no more than one hundred percent (100%) of the withholdings of eligible and expansion positions for each year the business maintains the minimum job creation requirement for Phase II and meets all terms of the agreement. A business that fails to maintain the minimum job creation requirement or meet all terms of the agreement required for Phase II but remains in compliance with the requirements for Phase I will be disqualified from receiving the enhanced percentage of withholdings under this subdivision and will have the applicable percentage set forth in subdivision (2) of this subsection applied in the year in which the failure occurs and all remaining years of the grant term; provided that, if the business fails to meet the requirements for Phase I, the business is disqualified from receiving an enhanced percentage of withholdings, and the percentage set forth in subdivision (1) of this subsection shall be applied in the year in which the failure occurs and all remaining years of the grant term.
- (4) Transformative project. – If the project is a transformative project and the business has met the investment and job creation requirements and all terms of

the agreement, the amount of the grant awarded shall be no more than one hundred percent (100%) of the withholdings of eligible and expansion positions for each year the business maintains the minimum job creation requirement and meets all terms of the agreement. A business that fails to maintain the minimum job creation requirement or meet all terms of the agreement required to qualify as a transformative project will be disqualified from receiving the enhanced percentage of withholdings under this subsection and will have the applicable percentage set forth in subdivision (1) of this subsection applied in the year in which the failure occurs and all remaining years of the grant term.

- (a1) Repealed by Session Laws 2021-180, s. 11.9(e), effective November 18, 2021.
- (b) Base Period. – The maximum number of years in the base period for which grant payments may be made shall not exceed the following:
 - (1) For transformative projects, 10 years.
 - (2) For transitional projects, five years for purposes of eligible positions required for Phase I of the project and 10 years for purposes of the additional positions required for Phase II of the project under the agreement.
 - (3) For all other projects, five years.
- (b1) Grant Term. – The term of the grant shall not exceed the duration listed in this subsection. The first grant payment must be made within six years after the date on which the grant was awarded. Maximum durations are as follows:
 - (1) For high-yield projects in which the business receives the enhanced percentage pursuant to subsection (a) of this section, 20 years starting with the first year a grant payment is made. If a business is disqualified from the enhanced percentage in one of the first 12 years, the term of the grant shall not exceed 12 years starting with the first year a grant payment is made. If a business is disqualified from receiving the enhanced percentage after the first 12 years, the term of the grant ends in the year the disqualification occurs.
 - (1a) For transitional projects in which the business receives the enhanced percentage for Phase II pursuant to subsection (a) of this section, the base period plus 30 years starting with the first year a grant payment is made. If a business is disqualified from the enhanced percentage allowed for Phase II but meets the requirements for Phase I, the term of the grant shall not exceed 20 years starting with the first year a grant payment is made. If a business is disqualified from the enhanced percentage allowed for Phase I, the term of the grant shall not exceed 12 years starting with the first year a grant payment is made. If a disqualification occurs after the maximum term provided in this subdivision, the term of the grant ends in the year the disqualification occurs.
 - (1b) For transformative projects in which the business receives the enhanced percentage pursuant to subsection (a) of this section, the base period plus 30 years starting with the first year a grant payment is made. If a business is disqualified from the enhanced percentage in one of the first 12 years, the term of the grant shall not exceed 12 years starting with the first year a grant payment is made. If a business is disqualified from receiving the enhanced percentage after the first 12 years, the term of the grant ends in the year the disqualification occurs.
 - (2) For all other projects, 12 years starting with the first year a grant payment is made.
- (c) Repealed by Session Laws 2021-180, s. 11.9(e), effective November 18, 2021.

(d) Utility Account. – For any eligible position that is located in a development tier three area, seventy-five percent (75%) of the annual grant approved for disbursement shall be payable to the business, and twenty-five percent (25%) shall be payable to the Utility Account pursuant to G.S. 143B-437.61. For (i) any business that receives an enhanced percentage pursuant to subsection (a) of this section and (ii) any eligible position that is located in a development tier two area, ninety percent (90%) of the annual grant approved for disbursement shall be payable to the business, and ten percent (10%) shall be payable to the Utility Account pursuant to G.S. 143B-437.61. A position is located in the development tier area that has been assigned to the county in which the project is located at the time the application is filed with the Committee.

(e) Grant Coordination. – A business that is receiving any other grant by operation of State law may not receive an amount as a grant pursuant to this Part that, when combined with any other grants, exceeds the applicable maximum percentage of the withholdings of the business, as provided in subsection (a) of this section, unless the Committee makes an explicit finding that the additional grant is necessary to secure the project.

(f) Per Job Maximum. – For projects other than transformative projects, the amount of a grant associated with any specific eligible position, including any amount transferred to the Utility Account pursuant to G.S. 143B-437.61, may not exceed sixteen thousand dollars (\$16,000) in any year. (2002-172, s. 2.1(a); 2003-416, s. 2; 2003-435, 2nd Ex. Sess., s. 2.5; 2006-168, s. 1.5; 2006-252, s. 2.9(a), (b); 2006-264, s. 69(d); 2015-259, s. 1(e); 2015-264, s. 91(a); 2017-57, s. 15.15A(c); 2017-102, s. 24.1; 2018-5, s. 15.1(d); 2018-137, s. 1; 2019-177, s. 9(d); 2021-180, s. 11.19(e); 2022-72, s. 5.1(b).)