

§ 143B-437.51. Definitions.

The following definitions apply in this Part:

- (1) Agreement. – A community economic development agreement under G.S. 143B-437.57.
- (2) Base period. – The period of time set by the Committee during which new employees are to be hired for the positions on which the grant is based.
- (3) Business. – A corporation, sole proprietorship, cooperative association, partnership, S corporation, limited liability company, nonprofit corporation, or other form of business organization, located either within or outside this State.
- (4) Committee. – The Economic Investment Committee established pursuant to G.S. 143B-437.54.
- (4a) Development tier. – The classification assigned to an area pursuant to G.S. 143B-437.08.
- (5) Eligible position. – A position created by a business and filled by a new full-time employee in this State during the base period. For purposes of high-yield projects, transitional projects, and transformative projects, (i) positions created in the year the business achieves the minimum requirements set forth in this section may be considered eligible positions even if created outside the base period and (ii) in a year other than during the base period, an eligible position must be filled for at least 30 weeks of the applicable grant year.
- (5a) Expansion position. – A position created by a business and filled by a new full-time employee in this State in Phase II of a transitional project or for a transformative project in any year in which the business receives the enhanced percentage of the withholdings of eligible positions pursuant to G.S. 143B-437.56(a).
- (6) Full-time employee. – A person who is employed for consideration for at least 35 hours a week, whose wages are subject to withholding under Article 4A of Chapter 105 of the General Statutes, who is not a worker with an H-1B visa or with H-1B status, and who is determined by the Committee to be employed in a permanent position according to criteria it develops in consultation with the Attorney General. Except as allowed by this Part for system contractors, the term does not include any person who works as an independent contractor or on a consulting basis for the business.
- (6a) High-yield project. – A project for which the agreement requires that a business invest at least five hundred million dollars (\$500,000,000) in private funds and create at least 1,750 eligible positions.
- (7) New employee. – A full-time employee who represents a net increase in the number of the business's employees statewide.
- (8) Overdue tax debt. – Defined in G.S. 105-243.1.
- (9) Related member. – Defined in G.S. 105-130.7A.
- (9a) System contractor. – A person employed by an entity that contracts with a business with which an agreement for a high-yield, transitional, or transformative project was entered into for the purpose of providing full-time employees exclusively located at and directly engaged in the primary operations of the project if all of the following criteria are met:
 - a. The number of system contractors used does not exceed fifteen percent (15%) of the eligible positions and is not used to fill expansion positions.

- b. System contractors, other than in designation, meet all other requirements applicable to full-time employees of the business filling eligible positions.
 - c. The entity providing system contractors certifies to the business that it meets the same requirements imposed by this Part on the business with respect to system contractors provided at the project site, and the business agrees to procure from the entity and provide to either the Department of Revenue or the Department, upon request, any documentation needed to verify the requirements.
 - d. The entity providing the system contractors and the business are not related members and are not, directly or indirectly, affiliated in any way.
- (9b) Transformative project. – A project for which the agreement requires that a business invest at least one billion dollars (\$1,000,000,000) in private funds and create at least 3,000 eligible positions.
- (9c) Transitional project. – A project for which the agreement requires the following:
- a. Phase I. – That a business invest at least one billion dollars (\$1,000,000,000) in private funds and create at least 1,750 eligible positions.
 - b. Phase II. – That a business, upon exercising an option in the agreement during the first 36 months of the agreement term to expand the project, increase the investment of private funds to at least three billion dollars (\$3,000,000,000) and increase job creation to at least 3,875 eligible positions. Exercise of an option under this sub-subdivision is contingent upon the business meeting and maintaining Phase I requirements at and beyond the end of the applicable base period for Phase I set forth in the agreement. Notice of exercising the option must be in writing to the Department.
- (10) Withholdings. – The amount withheld by a business from the wages of employees in eligible positions and, if applicable, expansion positions under Article 4A of Chapter 105 of the General Statutes. (2002-172, s. 2.1(a); 2003-416, s. 2; 2003-435, 2nd Ex. Sess., s. 2.1; 2006-168, s. 1.1; 2006-252, s. 2.6; 2006-264, s. 69(a); 2015-259, s. 1(a); 2015-264, s. 91(a); 2017-57, s. 15.15A(a); 2018-5, s. 15.1(a); 2021-180, s. 11.19(e).)