

April 15, 1999

**S 1115. AMEND BILL LEE ACT/INCENTIVES. TO PROVIDE FOR WIDELY SHARED PROSPERITY BY AMENDING THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT, BY PROVIDING ADDITIONAL TAX INCENTIVES FOR VARIOUS BUSINESSES, AND BY MAKING RELATED CHANGES.**

*Bill Lee Act changes.* Extends provisions of Art. 3A of GS Ch. 105 (tax incentives for new and expanding businesses) until Jan. 1, 2005. Rewrites definitions of central administrative office, data processing, manufacturing, warehousing, and wholesale trade. Effective for tax years beginning on or after Jan. 1, 2000, establishes new exception with respect to enterprise tier designation to allow designation one tier lower if county has population of less than 20,000 and poverty rate of at least 18%. Effective July 1, 1999, adds additional criteria for development zone designation: (1) every census tract and census block group in zone must have poverty rate of at least 10% or be immediately adjacent to tract or block that has poverty rate of at least 20%, and (2) none of tracts or zones are located in another designated development zone. Requires that taxpayer applying for designation of development zone must notify affected municipalities. Application for designation must be filed by Sept. 1. Sec'y of Commerce must make designations effective Jan. 1. Designations are effective for 24 months (now, 48 months). Effective for tax years beginning on or after Jan. 1, 2000, extends eligibility for tax credit for new and expanding business to consumer service centers (as defined in act). Effective for tax years beginning on or after Jan. 1, 2000, imposes additional conditions regarding health insurance, environmental impact, and safety and health programs with respect to taxpayers claiming credits under Art. 3A. Provides that eligibility requirements of GS 105-129.4 do not apply to credit for development zone projects. Effective July 1, 1999, increases fee for application for certification under GS 105-129.6 from \$75 to \$500 for each credit in a tier 3, 4, or 5 area (\$1,500 maximum). Three-quarters of fees must be transferred to Dep't of Revenue for administration of tax credits. Effective for tax years beginning on or after Jan. 1, 2000, enacts new GS 105-129.13 establishing a new credit for development zone projects.

*Sales tax changes.* Recodifies GS 105-164.4(a)(1d)a. through k. as GS 105-164.4A. Effective Jan. 1, 2000, makes "distress tier equipment" subject to reduced sales tax under this section. Effective Jan. 1, 2000, adds new GS 105-164.14(h) allowing refund of sales and use tax paid by nonprofit insurance companies before Jan. 1, 2005 on building materials, etc. that become part of its real property. Specifies conditions governing eligibility for such refunds. Effective with respect to sales made on or after May 1, 1999, exempts from sales tax sale of specified aircraft-related goods to interstate passenger air carrier for use at its hub.

*Affordable housing tax credit.* Enacts new GS 105-129.16A establishing a new tax credit for low-income housing. Effective for tax years beginning on or after Jan. 1, 2000.

*Industrial development fund changes.* Amends GS 143B-437.01(a) to provide that project may not be funded unless Commerce Sec'y finds project will not have a materially adverse effect on environment. Effective July 1, 1999.

**Intro. by Kerr.**

Ref. to Finance

GS 105, 143B

May 20, 1999

**S 1115. AMEND BILL LEE ACT/INCENTIVES.** Intro. 4/15/99. Senate committee substitute makes the following changes to 1st edition. Amends proposed amendment to GS 105-129.3(e) to redefine the exception for small counties under the act (that gives it one less level of enterprise tier designation if it meets certain criteria) to raise the minimum population a covered county may have to 50,000 and to add second new exception making county with less than 25,000 population an enterprise three zone if it would otherwise be a zone four or five. Rewrites portion of proposed amendment to GS 105-129.4 dealing with environmental impact to provide that eligibility for credit is allowed only if taxpayer certifies that it does not have nor expects to have a materially adverse impact on environment for business location for which credit is claimed. Allows random checks by Dep't of Environment and Natural Resources of sites. Rewrites portion of same section dealing

with safety and health programs to require similar certification with respect to compliance with Occupational Safety and Health Act, including a certification that business has no outstanding violation and no serious violation in last three years. Allows Dep't of Labor to make random checks of certifying businesses. Deletes proposed amendment to GS 105-16.4A and inserts new amendment to GS 105-64.14 by adding new subsection (h) to allow refunds to low enterprise tier businesses for sales and use taxes paid at general rate of tax on eligible machinery and equipment purchased for enterprise tier area one or two. Requests for refunds must be in writing and applied for within six months after end of state's fiscal year. Must be engaged in business listed in GS 105-129.4(a) to qualify for refund. Adds new subsection (c) to proposed new GS 105-129.16A (dealing with credit for low income housing) to provide that if taxpayer is no longer eligible for comparable federal credit during one of the years in which the credit accrues, the credit expires. Modifies effective dates to provide that sections on application fees and information are effective 30 days after bill becomes law, and section of affordable housing credit applies to buildings to which federal credits are allocated on or after Jan. 1, 2000.

May 25, 1999

**S 1115. WILLIAM S. LEE ACT/1999.** Intro. 4/15/99. Senate amendment makes the following changes to 2nd edition. Amendment # 1 amends GS 105-129.10(c) to provide that notwithstanding GS 105-228.90(b), as used in this section, the term "Code" means the Internal Revenue Code as enacted as of January 1, 1999. Amendment # 2 amends GS 105-129.13(b) to define terms "community development purpose" and "improvement projects." Further amends that section to provide that before certifying that a development zone agency will undertake an improvement project in a development zone, Sec'y must require the agency to provide sufficient documentation to establish the identity of the agency, the nature of the project, and that project is for a community development purpose and is located in a development zone. Amendment # 3 changes date for refunds under GS 105-64.14(l) from January 1, 2005 to January 1, 2008, and changes expiration date of Section 5 of Act from January 1, 2005 to January 1, 2008.

June 24, 1999

**S 1115. AMEND BILL LEE ACT/INCENTIVES.** Intro. 04/15/99. House committee substitute makes the following changes to 3rd edition:

Generally postpones the expiration of the GS 105, Art. 3B business tax credits, from Jan 1, 2002, to Jan. 1, 2007.

Generally extends the benefits of the Act to electronic mail order houses. Adds new GS 105-129.2(5a) to define an electronic mail order house to be an electronic shopping and mail order house as defined by the North American Industry Classification system. Adds GS 105-129.4(a)(3a) to allow the income tax credit of GS 105-129.12 to apply to such mail order houses. Amends GS 105-129.4(a1) to provide that an electronic mail order house creates at least 250 new jobs if the taxpayer hires at least 250 additional full-time employees to fill new positions in the two-year period ending on the last day of the taxable year in which the taxpayer first claims a credit.

Amends GS 105-129.4(b3) (Environmental Impact) to provide that the credit for new and expanding businesses is available if the taxpayer 'has no pending administrative, civil, or criminal enforcement action based on alleged significant violations of any program implemented by the Dep't of Environment and Natural Resources, and has had no final determination of responsibility for any significant administrative, civil, or criminal violation of such a program (as defined in GS 143-215.6B(d) within the last five years' (3<sup>rd</sup> edition, taxpayer 'has not had and does not reasonably expect to have a materially adverse effect on the environment' at the business location where the credit is claimed).

Amends GS 105-129.6 to provide that the report certifying the number of jobs created must refer to full-time jobs.

Amends GS 105-129.7(Substantiation) to add new information requirements for the taxpayer to provide the Sec'y of Revenue, including the physical location of the jobs and investment and the residence of each person for whom a credit is claimed before the person took the job. Also requires the listing of the type of business, the amount of investment requirement met to date, and various other types of qualifying information.

Amends GS 105-164.14(i)(1) to provide that eligible nonprofit insurance companies are allowed an annual refund of sales and use taxes for building materials, building supplies, fixtures, and equipment until Jan. 1, 2008. Adds provisions for refund for taxes paid on computer systems hardware and software costs that are capitalized, but refund is without expiration. Requires that the eligible insurance company must invest \$20 million for a facility in this state (was, \$10 million).

Amends GS 105-129.16A to provide a state income tax credit for low-income housing equal to a percentage of the total federal credit allowed for the building. The total federal credit is the total allowed during the 10-year federal credit period plus the disallowed first-year credit allowed in the 11<sup>th</sup> year. Bases the total federal credit for purposes of bill on the qualified basis at the end of the first year without recalculation to reflect subsequent increases in qualified basis. If the building is in a tier-one or tier-two enterprise area, the credit percentage is 75%. For all other buildings, the percentage is 25%.

Amends GS 143B-437.01(a)(5) to provide that no project subject to the state's Environmental Policy Act may be funded with monies from the Industrial Development Fund unless the Sec'y of Commerce finds that the project will not have a significant adverse effect on the environment. This finding may not be made unless the Sec'y has first received a certification from the Dep't of Environment and Natural Resources that concludes, after consideration of avoidance and mitigation measures, that the proposed project will not have such an effect.

Adds new GS 105-277.13 (Brownfields property) to define a 'recently remediated Brownfields property' to mean a Brownfields property for which all remediation required under a Brownfields agreement has been completed within the 10 years immediately preceding the signing date for the property. Designates such property as a special class of property under the N.C. Constitution. Provides that such property shall be assessed at the lower of its true value as of the valuation date or its true value as of January 1 preceding the beginning of its remediation under an agreement.

Amends the Brownfields Property Reuse Act Implementation Account (GS 130A-310.38) to add interest on fees to the account. Allows the Dep't of Environment and Natural Resources to contract out any service necessary to implement its authority. Increases the initial fee for reviewing a Brownfields agreement from \$1,000 to \$2,000. Requires a prospective developer to pay another fee upon entering into an agreement equal to the full costs to the Dep't and to the Dep't of Justice of all activities relating to the agreement. Provides for the fee to be paid in installments, one when the agreement is entered into and the second upon certification of remediation. Provides for the collection of interest upon these fees and a property lien if the fees and interest remain unpaid.

Directs Dep't of Commerce to encourage reasonable efforts to reduce the use of excessive tax and economic incentives for interstate competition in luring businesses from one state to another. Directs the Dept' to report on its efforts to the Revenue Laws Study Committee by March 1, 2000, and March 1, 2001.

Repeals the qualified business investment tax credit for investments made on or after Jan. 1, 2003. Repeals a number of income tax credits for investments made during tax years beginning on or after Jan. 1, 2005. These credits are for: (1) solar energy equipment in residential buildings (corporate); (2) solar energy equipment; (3) construction of cogenerating power plants (corporate); (4) conversion of industrial boiler to wood fuel; (5) construction of a fuel ethanol distillery; (6) construction of a peat facility; (7) construction of a photovoltaic equipment facility; (8) construction of a olivine brick facility; (9) construction of a methane gas facility; (10) installation of a wind energy device; (11) installation of a hydroelectric generator; (12) conservation tillage equipment; (13) rehabilitating historic structures; (14) construction of a poultry composting facility; and (15) construction of dwelling units for handicapped persons. The following tax credits are repealed for donations made during taxable years beginning on or after Jan. 1, 2003: (1) certain donations of real property for public access and conservation purposes; (2) gleaned crops; and (3) charitable contributions by nonitemizers. The following tax credits are repealed for taxable years beginning on or after Jan. 1, 2003: (1) certain telephone subscriber line charges; (2) savings and loan supervisory fees; (3) property taxes paid on farm machinery; (4) child health insurance; and (5) premiums paid on long-term care insurance. The following tax credits are repealed for charges assessed during taxable years beginning on or after Jan. 1, 2005: (1) N.C. State Port Authority wharfage, handling, and throughput charges, and (2) gross premium tax for

assessments paid to the Insurance Guaranty Association and the Life and Health Insurance Guaranty Association.

Makes sections of bill applicable to customer service centers and electronic mail order houses effective for taxable years beginning on or after Jan. 1, 2000. Makes sections of bill applicable to interstate passenger air carrier hubs generally effective retroactively as of Jan. 1, 1999, but all other definitional changes to GS 105-129.2 effective when act becomes law. Makes changes effecting development zone definitions effective Aug. 1, 1999. Makes section concerning temporary sales tax refund for nonprofit insurance companies effective Jan. 1, 2001. Makes sales tax preferences for interstate air couriers effective Jan. 1, 2001. Makes inclusion of fuel in sales tax preferences effective Oct. 1, 1999. Makes changes affecting the taxation of Brownfields property effective July 1, 2000.

June 30, 1999

**S 1115. WILLIAM S. LEE ACT/1999.** Intro. 4/15/99. House amendments make the following changes to 4th edition. Amends GS 105-129.3A to define development zone as (1) an area in a county with a population of less than 10,000 that does not have a city with a population greater than 5,000 and contains at least one census tract with a poverty rate of more than 16%, or (2) an area comprised of one or more contiguous census tracts where (1) every census tract and census block group in the zone is located within the primary corporate limits of a city with a population of more than 5,000, (2) has a population of 1,000 or more, (3) more than 16% live below poverty level, (4) every census tract and block group meets at least one of the following conditions: (a) more than 10% of population is below poverty level, or (b) is immediately adjacent to another tract or block group that is in the same zone and has more than 16% of its population below poverty level, and (5) none of the tracts or zones are located in another development zone designated by the Sec'y of Commerce. Changes definition of "recently remediated brownfields property" in GS 105-277-13. Adds requirement that Dep't of Commerce study effect of tax incentives provided in William S. Lee Act on tax equity and specifies terms of study. Deletes sections 19 through 33.1 of previous version of bill.

July 1, 1999

**S 1115. WILLIAM S. LEE ACT.** Intro. 4/15/99. House amendments make the following changes to 5th edition. Changes sunset date to January 1, 2006 (was 2007). Deletes new GS 105-277.13 regarding recently remediated brownfields property. Makes other conforming technical changes.

July 13, 1999

**S 1115. WILLIAM S. LEE ACT/1999.** Intro. 4/15/99. Conference report recommends the following changes to 5th edition to reconcile matters in controversy. Retains current Jan. 1, 2002 expiration date of GS 105-129.16 (credit for investing in business property) but provides that remainder of GS Ch. 105, Art. 3B remains in effect until Jan. 1, 2006 for buildings to which federal credits are allocated.

Revises GS 105-129.3(e), which establishes an exception for certain small counties with respect to the tax credit for new and expanding businesses, to provide that county with population under 10,000 and 18% of population below federal poverty level is designated as an enterprise tier one area.

Revises GS 105-129.3A, which defines the term "development zone," to include areas that meet all of the following conditions: (1) entire area is within primary corporate limits of city with population of more than 5,000; (2) area has population of 1,000 or more, (3) more than 20% of the population is below federal poverty level, (4) every census tract and census block group in the zone meets one of the following conditions (a) more than 10% of population under federal poverty level, or (b) is immediately adjacent to another tract or block group that is in the same zone and has more than 20% of population below poverty level, and (5) none of the tracts or block groups is located in another development zone.

Revises amendment to GS 105-164.14 (temporary refunds of sales taxes to certain nonprofit insurance companies) to repeal refund of taxes paid on computer hardware and software effective Jan. 1, 2004 and to repeal entire special refund statute effective Jan 1, 2008.

