

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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**HOUSE BILL 1004**  
**Committee Substitute Favorable 4/26/05**  
**Senate Finance Committee Substitute Adopted 7/12/05**  
**Fourth Edition Engrossed 7/13/05**

Short Title: Extend JDIG and Bill Lee Act.

(Public)

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Sponsors:

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Referred to:

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March 31, 2005

A BILL TO BE ENTITLED

1  
2 AN ACT TO EXTEND THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS  
3 EXPANSION ACT AND THE JOB DEVELOPMENT INVESTMENT GRANT  
4 PROGRAM TO ALTER THE MANNER IN WHICH ENTERPRISE TIERS ARE  
5 DESIGNATED; AND TO AMEND THE HEALTH INSURANCE  
6 REQUIREMENTS FOR THE JOB DEVELOPMENT INVESTMENT GRANT  
7 PROGRAM.

8 The General Assembly of North Carolina enacts:

9       **SECTION 1.** G.S. 105-129.2A reads as rewritten:

10 **"§ 105-129.2A. Sunset; studies.**

11       (a) Sunset. – This Article is repealed effective for business activities that occur  
12 on or after January 1, ~~2006~~2008.

13       (a1) Sunset for Interstate Air Couriers. – Notwithstanding subsection (a) of this  
14 section, in the case of an interstate air courier that enters into a real estate lease on or  
15 before January 1, 2006, with an airport authority that provides for the lease of at least  
16 100 acres of real property with a lease term in excess of 15 years, this Article is repealed  
17 effective for business activities that occur on or after January 1, 2010.

18       (a2) Sunset for Eligible Major Industries. – Notwithstanding subsection (a) of this  
19 section, in the case of a taxpayer that qualifies as an eligible major industry on or before  
20 January 1, 2006, this Article is repealed effective for business activities that occur on or  
21 after January 1, 2010.

22       (a3) Sunset for Certain Taxpayers Located in Development Zones. –  
23 Notwithstanding subsection (a) of this section, in the case of a taxpayer that satisfies all  
24 of the conditions of this subsection, this Article is repealed effective for business  
25 activities that occur on or after January 1, 2010.

26               (1) Before January 1, 2006, the taxpayer signs a letter of commitment with  
27 the Department of Commerce describing a proposed new or expanding

1            project and specifying the amount to be invested in real property and  
2            machinery and equipment, the number of new jobs to be created, and a  
3            proposed timetable for making the investment and creating the jobs.

4            (2) Before January 1, 2006, the Secretary of Commerce makes a written  
5            determination that the taxpayer is expected to purchase, lease, or  
6            construct and place in service in an eligible business at a location  
7            within a development zone within a three-year period at least ten  
8            million dollars (\$10,000,000) of real property and machinery and  
9            equipment and that the taxpayer will create at least 300 new jobs at the  
10           location within a three-year period beginning when the property is first  
11           placed in service in an eligible business.

12           (3) Before January 1, 2006, the taxpayer places at least four million  
13           dollars (\$4,000,000) of real property and machinery and equipment in  
14           service at the location and creates at least 20 new jobs at the location.

15           (b) Equity Study. – The Department of Commerce shall study the effect of the  
16 tax incentives provided in this Article on tax equity. This study shall include the  
17 following:

18           (1) Reexamining the formula in G.S. 105-129.3(b) used to define  
19 enterprise tiers, to include consideration of alternative measures for  
20 more equitable treatment of counties in similar economic  
21 circumstances.

22           (2) Considering whether the assignment of tiers and the applicable  
23 thresholds are equitable for smaller counties, for example those under  
24 50,000 in population.

25           (3) Compiling any available data on whether expanding North Carolina  
26 businesses receive fewer benefits than out-of-State businesses that  
27 locate to North Carolina.

28           (c) Impact Study. – The Department of Commerce shall study the effectiveness  
29 of the tax incentives provided in this Article. This study shall include:

30           (1) Study of the distribution of tax incentives across new and expanding  
31 industries.

32           (2) Examination of data on economic recruitment for the period from 1994  
33 through the most recent year for which data are available by county, by  
34 industry type, by size of investment, and by number of jobs, and other  
35 relevant information to determine the pattern of business locations and  
36 expansions before and after the enactment of the William S. Lee Act  
37 incentives.

38           (3) Measuring the direct costs and benefits of the tax incentives.

39           (4) Compiling available information on the current use of incentives by  
40 other states and whether that use is increasing or declining.

41           (d) Report. – The Department of Commerce shall report the results of these  
42 studies and its recommendations to the General Assembly biennially with the first report  
43 due by April 1, 2001."

44           **SECTION 2.** G.S. 105-129.4(d) reads as rewritten:

1       "(d) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the  
2 taxpayer was not eligible for the credit for the calendar year in which the taxpayer  
3 engaged in the activity for which the credit was claimed. In addition, a taxpayer forfeits  
4 a large investment enhancement of a tax credit if the taxpayer fails to timely make the  
5 required level of investment under subsection (b1) of this section. If an eligible major  
6 industry fails to timely make the required level of investment under G.S. 105-129.2(8a),  
7 the taxpayer forfeits all credits allowed under this Article that it would not otherwise  
8 have been eligible for if it were not an eligible major industry. If a taxpayer that is  
9 subject to the later repeal date of this Article under G.S. 105-129.2A(a3) fails to timely  
10 make the required level of investment or to timely create the required number of new  
11 jobs, the taxpayer forfeits all credits allowed under this Article that it would not  
12 otherwise have been eligible for if it were not subject to the later repeal date under  
13 G.S. 105-129.2A(a3). A taxpayer forfeits the credit for substantial investment in other  
14 property allowed under G.S. 105-129.12A if the taxpayer fails to timely create the  
15 number of required new jobs or to timely make the required level of investment under  
16 subsection (b5) of this section. A taxpayer forfeits the technology commercialization  
17 credit allowed under G.S. 105-129.9A if the taxpayer fails to make the level of  
18 investment required by subsection (e) of that section within the required period or if the  
19 taxpayer fails to meet the terms of its licensing agreement with a research university. If  
20 a taxpayer claimed a twenty percent (20%) technology commercialization credit under  
21 G.S. 105-129.9A(d) and fails to make the level of investment required under that  
22 subsection within the required period, but does make the level of investment required  
23 under subsection (e) of that section within the required period, the taxpayer forfeits  
24 one-fourth of the twenty percent (20%) credit.

25       A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided  
26 as a result of the credit plus interest at the rate established under G.S. 105-241.1(i),  
27 computed from the date the taxes would have been due if the credit had not been  
28 allowed. The past taxes and interest are due 30 days after the date the credit is forfeited;  
29 a taxpayer that fails to pay the past taxes and interest by the due date is subject to the  
30 penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for creating jobs, the  
31 technology commercialization credit, or the credit for investing in machinery and  
32 equipment, the taxpayer also forfeits any credit for worker training claimed for the jobs  
33 for which the credit for creating jobs was claimed or the jobs at the location with respect  
34 to which the technology commercialization credit or the credit for investing in  
35 machinery and equipment was claimed."

36       **SECTION 3.** G.S. 143B-437.62 reads as rewritten:

37       "**§ 143B-437.62. Expiration.**

38       The authority of the Committee to enter into new agreements expires January 1,  
39 ~~2006-2008.~~"

40       **SECTION 4.** G.S. 105-129.3 is amended by adding a new subsection to  
41 read:

42       "(f) Exceptions for Certain Counties with High Unemployment. –  
43 Notwithstanding the provisions of this section, a county whose rank in a ranking of

1 counties by average rate of unemployment for the preceding 12 months, from highest to  
2 lowest, is one of the 10 highest in the State is designated an enterprise tier one area."

3 **SECTION 5.** G.S. 143B-437.53(c) reads as rewritten:

4 "(c) Health Insurance. – A business is eligible for a grant under this Part only if  
5 the business provides health insurance for all of the applicable full-time employees of  
6 the project with respect to which the grant is made. For the purposes of this subsection,  
7 an applicable full-time employee is one who earns from the business less than one  
8 hundred fifty thousand dollars (\$150,000) in taxable compensation on an annualized  
9 basis or three and one-half times the annualized average state wage for all insured  
10 private employers in the State employing between 250 and 1,000 employees, whichever  
11 is greater. For the purposes of this subsection, a business provides health insurance if it  
12 pays at least fifty percent (50%) of the premiums for health care coverage that equals or  
13 exceeds the minimum provisions of the basic health care plan of coverage  
14 recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

15 Each year that a business receives a grant under this Part, the business must provide  
16 with the submission required under G.S. 143B-437.58 a certification that the business  
17 continues to provide health insurance, as required by this subsection, for all applicable  
18 full-time employees of the project with respect to which the grant is made. If the  
19 business ceases to provide the required health insurance to all full-time employees of  
20 the project with respect to which a grant is made, insurance, the Committee shall amend  
21 or terminate the agreement as provided in G.S. 143B-437.59."

22 **SECTION 6.** This act is effective when it becomes law. Section 4 of this act  
23 applies to designations made on or after that date.