NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1560 (Committee Substitute Favorable 6/7/00)

SHORT TITLE: Modify Bill Lee Act

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES					
General Fund			**-30,000**	**-60,000**	**-90,000**

PRINCIPAL DEPARTMENTS AFFECTED: Department of Revenue administers tax credits and Department of Commerce administers credit application and certification process. The enactment of the bill will not affect the budget requirements of either department.

EFFECTIVE DATE: See "Bill Summary".

ISSUE BACKGROUND: The Bill Lee Act is the package of state tax incentives that was first adopted in 1996 and has been modified in each subsequent year. The incentives are primarily in the form of tax credits for investment in machinery and equipment, job creation, worker training, and research/development. For many of the credits the counties of the State are divided into five economic distress tiers based on the unemployment rate, per capita income, and population growth. In general, the lower the tier of a county, the more favorable the incentive.

BILL SUMMARY: **Application Fee Changes.** Expands the fee exemption for Bill Lee Act credits claimed in a development zone and clarifies that there is no application fee for the special credit for a development zone project. Effective for applications made on or after January 1, 2001. **Extend Credit Carryforwards.** Bill Lee Act credits generally cannot exceed 50% of tax liability, with a 5-year carryforward. In recent years longer carryforwards have been established for specific incentives. The bill creates a new rule that allows unused credits to be carried forward to 10 years in cases where the taxpayer will purchase or lease, and place in service within 2 years, at least $50 million of real property, machinery and equipment, central office property, or aircraft facility property. Effective for taxable years beginning on or after January 1, 2000. **Wage Standards for Grants.** Average weekly wage standards apply to jobs credits under the Bill Lee Act. The standards vary by tier. The bill requires a business seeking a grant from the Industrial Recruitment Competitive Fund to meet the wage standard and the project for which a local government units is seeking an Industrial Development Fund grant to meet the wage standard. Effective for activity occurring on or after July 1, 2000. **Prohibit Funding for Defaulting Grantees.** Prohibits the Department of Commerce from making a loan or awarding a grant to any individual, organization, or governmental units currently in default on a loan made by Commerce. Effective for activity occurring on or after July 1, 2000. **Aircraft Maintenance Facility Credit.** Expands the list of eligible businesses for the Bill Lee Act credits to include an auxiliary subdivision of an interstate passenger air carrier primarily engaged in aircraft maintenance and repair services or aircraft rebuilding. Effective for tax years beginning on or after January 1, 2001. **Employee Buyout Incentive.** In general, the acquisition of a business, or any other transaction by which an existing business reformulates itself, does not create new eligibility in the succeeding business. However, in 1998 an exception was allowed for an employee buyout situation. HB 1814 makes technical changes to the 1998 exception language. Effective for acquisitions made on or after May 1, 1999. **Low Income Housing Credit For Disaster Counties.** The 1999 General Assembly allowed a tax credit for constructing or rehabilitating low income housing. A 75% credit is allowed in tier 1 or 2 counties and 25% in the other counties. HB 1814 provides that the 75% credit is allowed for buildings located in a county that has been designated as having sustained severe or moderate damage from a hurricane or hurricane-related disaster Effective for tax years beginning on or after January 1, 2001, applies to buildings to which federal credits are allocated on or after January 1, 2001, and expires on January 1, 2005. **Low Income Housing Credit Technical Change**. Clarifies that if a building in a tier 3, 4, or 5 county no longer meets the State tax credit requirements, the remaining installments of the tax credit may not be taken even though the federal credit may still apply. Effective for tax years beginning on or after January 1, 2000**.** **Jobs Tax Credit Change**. To qualify a taxpayer must have 5 or more employees for at least 40 weeks per year. The bill eliminates the 40-week requirement**.** Effective for tax years beginning on or after January 1, 2000. **Investment Tax Credit Correction**. Under the Bill Lee Act, a targeted investment tax credit for investing in machinery and equipment must be taken over a 7-year period. If the taxpayer replaces the machinery or equipment with newly acquired property during the installment period, the remaining credit installments are eliminated and no credit is allowed on the new items except to the extent that its value exceeds the value of the original machinery. The bill provides that the remaining installments of the investment tax credit may be taken if the value of the newly acquired machinery and equipment offsets at least 80% of the value of the items taken out of service. Effective for tax years beginning on or after January 1, 2000. **Technical Correction.** Clarifies the eligibility requirements for the 1999 sales tax refunds to certain nonprofit insurance companies.

ASSUMPTIONS AND METHODOLOGY: **Aircraft Maintenance Facility Credit.** This estimate was based on a simulation of 1 new qualifying facility per year. For the facility, it was assumed that 100 jobs would be created and the investment in machinery and equipment would be $1.5 million. The eligible investment base is relatively low because a large portion of the equipment for such a facility would be part of the real property and not eligible for the credit (applies only to tangible personal property). The credit is taken in the year after the investment is made so there would be no budgetary impact until 2002-03. **Extend Credit Carryforward.** The Department of Commerce provided a revenue loss estimate that would amount to $1.7 million in 2013-14 and $8.5 million by 2017-18. This estimate was based on a simulation using the following assumptions: $1.16 billion of annual investments with 60% of investment in machinery and equipment, and 20% of credit having to be carried over due to the 50% limitation.

An independent FRD analysis used more conservative assumptions including: 80% of the $1.16 billion of annual investments in machinery and equipment and 40% of the credits being carried forward. This change does not have an impact for over 12 years due to the fact that the changes applies to new investment, the fact that the credit must be taken over 7 years starting with the year following the investment, and that current law provides for a 5-year carry forward. **Jobs Tax Credit Change**: Discussions with the Department of Commerce and Department of Revenue indicated that in the past most of the taxpayers affected by the 40-week requirement have been able to qualify through the "letter of commitment" language under G.S. 105-129.8(d). This requirement involves a commitment for "at least twenty new full-time jobs".

The remainder of the changes in the bill either have no impact (technical changes and changes where the cost was accounted for in prior legislation) or the impact is insignificant.

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