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SENATE BILL DRS45466-RBf-30A

Short Title: COVID-19 Franchise Tax Credit and Grants.

(Public)

Sponsors: Senators Newton, Hise, and Tillman (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE A TEMPORARY FRANCHISE TAX CREDIT FOR
3 CORPORATIONS THAT RETAINED EMPLOYMENT LEVELS AND MADE
4 INVESTMENTS IN NORTH CAROLINA DURING AND AFTER THE COVID-19
5 PANDEMIC AND TO APPROPRIATE FUNDS FROM THE CORONAVIRUS RELIEF
6 RESERVE TO THE GENERAL FUND FOR THE FRANCHISE TAX CREDIT AND THE
7 ONE NORTH CAROLINA GRANT PROGRAM.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. Article 3 of Chapter 105 of the General Statutes is amended by adding
10 a new section to read:

11 "§ 105-122.2. Credit for retaining employment and making investments during the
12 COVID-19 pandemic.

13 (a) Sunset. – The purpose of this section is to enable corporations to sustain employment
14 and increase business property investment in this State during and after the COVID-19 pandemic.
15 This section is repealed for taxable years beginning on or after January 1, 2022.

16 (b) Corporation. – Subject to the limitations of this section, a corporation may apply for
17 a tax credit against the tax imposed under G.S. 105-122 if the corporation meets one or more of
18 the following:

19 (1) Investment. – It increases its total actual investment in tangible personal
20 property in this State from the previous taxable year, as determined under
21 G.S. 105-122(d)(3).

22 (2) Employment retention. – It retains employment for the taxable year at a level
23 that equals or exceeds ninety percent (90%) of the number of full-time
24 employees employed on March 31, 2020, and the average wage paid to those
25 employees must be at least ninety percent (90%) of the average wages paid to
26 full-time employees employed on March 31, 2020. The unemployment tax
27 filing for the quarter ending March 31, 2020, determines the full-time
28 employment level and the average wages paid to full-time employees
29 employed on March 31, 2020. For purposes of calculating the average wages
30 paid to employees, the following wages are excluded from the calculation:

31 a. Salaries of employees whose salary is in excess of two hundred
32 thousand dollars (\$200,000).

33 b. Wages of part-time employees.

34 (c) Holding Company. – Subject to the limitations of this section, a holding company
35 may apply for a tax credit against the tax imposed under G.S. 105-120.2 if the only asset of the
36 holding company is (i) an investment in a wholly owned operating subsidiary in this State or (ii)



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1 an investment in a wholly owned holding company in this State whose only asset is an investment
2 in a wholly owned operating subsidiary in this State and the operating subsidiary meets the
3 employment retention eligibility requirements under subdivision (b)(2) of this section. A holding
4 company is not eligible for the credit based upon investment in this State.

5 (d) Application. – An application is effective for the taxable year in which it is timely
6 filed. The application must be filed with the return. The Secretary may not accept an application
7 filed after October 15. The application must be on a form prescribed by the Secretary and must
8 include any supporting documentation that the Secretary may require.

9 (e) Tax Credit Amount. – A taxpayer must pay the tax due with the return and will be
10 refunded the credit amount as allowed under this section. The amount of the credit is equal to the
11 amount determined under subsection (f) of this section. The credit allowed by this section may
12 not exceed the amount of tax imposed by this Article for the taxable year. Any unused credit may
13 not be carried forward.

14 (f) Credit Limit. – The total of all tax credits allowed to taxpayers under this section in
15 taxable year 2020 may not exceed fifty million dollars (\$50,000,000), and the total of all tax
16 credits allowed to taxpayers under this section in taxable year 2021 may not exceed fifty million
17 dollars (\$50,000,000). The Secretary shall calculate the total amount of tax credits claimed from
18 the applications timely filed under subsection (d) of this section. If the total amount of tax credits
19 claimed for the taxable year exceeds the maximum amount allowed by this subsection, the
20 Secretary shall allow a portion of the credits claimed by allocating the maximum amount in tax
21 credits in proportion to the size of the credit claimed by each taxpayer. The Secretary's allocations
22 based on applications timely filed under subsection (d) of this section are final and shall not be
23 adjusted to account for credits applied for but not claimed. The Secretary must refund the tax
24 credit amount allowed to each taxpayer by the last day of the calendar year."

25 **SECTION 2.(a)** The State Controller shall transfer the sum of one hundred million
26 dollars (\$100,000,000) from the Coronavirus Relief Reserve created in Section 2.1 of S.L. 2020-4
27 to the General Fund, Coronavirus Relief Fund, established in Section 2.2 of that act.

28 **SECTION 2.(b)** There is appropriated from the Coronavirus Relief Fund to the
29 General Fund the sum of fifty million dollars (\$50,000,000) for 2020-2021 fiscal year and fifty
30 million dollars (\$50,000,000) for the 2021-2022 fiscal year to be used to provide the franchise
31 tax relief provided by G.S. 105-122.2, as enacted by this act.

32 **SECTION 2.(c)** These funds shall be expended only as allowed under the federal
33 Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136.

34 **SECTION 3.(a)** The State Controller shall transfer the sum of fifty million dollars
35 (\$50,000,000) from the Coronavirus Relief Reserve created in Section 2.1 of S.L. 2020-4 to the
36 General Fund, Coronavirus Relief Fund, established in Section 2.2 of that act.

37 **SECTION 3.(b)** There is appropriated from the Coronavirus Relief Fund to the
38 Department of Commerce the sum of fifty million dollars (\$50,000,000) for the 2020-2021 fiscal
39 year to be used to provide grants to a business to be used for one or more of the purposes for
40 which a One North Carolina Fund grant may be used as provided under G.S. 143B-437.71(b).
41 To qualify for a grant, the business must be a current recipient of a Job Development Investment
42 Grant or a Job Maintenance and Capital Development grant, or the business must apply to the
43 Secretary of Commerce for a grant under this section. The terms of any grant received under this
44 subsection must be substantially the same as the terms of an agreement under G.S. 143B-437.012
45 or G.S. 143B-437.57, as most appropriate.

46 **SECTION 3.(c)** The funds shall be expended only as allowed under the federal
47 Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136.

48 **SECTION 4.** Section 1 of this act is effective for taxable years beginning on or after
49 January 1, 2020, and is applicable to the calculation of franchise tax reported on 2019 and later
50 corporate income tax returns. The remainder of this act is effective when it becomes law.