

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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SENATE BILL 848

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

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

Referred to: Rules and Operations of the Senate

May 27, 2020

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15 This section is repealed for taxable years beginning on or after January 1, 2022.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)



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.