A BILL TO BE ENTITLED
AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE AND TO ENHANCE THE TAX BENEFITS OF A LOAN FORGIVEN UNDER THE PAYCHECK PROTECTION PROGRAM BY EXCLUDING THE AMOUNT FORGIVEN FROM GROSS INCOME AS WELL AS DEDUCTING THE BUSINESS EXPENSES THAT RESULTED IN THE FORGIVENESS OF THE LOAN AMOUNT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-228.90(b) reads as rewritten:

"(b) Definitions. – The following definitions apply in this Article:


…

(1b) Code. – The Internal Revenue Code as enacted as of January 1, 2019, May 1, 2020, including any provisions enacted as of that date that become effective either before or after that date.

…"

SECTION 2. The Revisor of Statutes is authorized to renumber the subdivisions of G.S. 105-228.90(b) to ensure that the subdivisions are listed in alphabetical order and in a manner that reduces the current use of alphanumeric designations, to make conforming changes, and to reserve sufficient space to accommodate future additions to the statutory subsection.

SECTION 3.(a) G.S. 105-130.5(a) reads as rewritten:

"(a) The following additions to federal taxable income shall be made in determining State net income:

…

(31) For taxable years 2019 and 2020, a taxpayer must add an amount equal to the amount by which the taxpayer’s interest expense deduction under section 163(j) of the Code exceeds the interest expense deduction that would have been allowed under the Internal Revenue Code as enacted as of January 1, 2020, as calculated on a separate entity basis. The purpose of this subdivision is to decouple from the modification of limitation on business interest allowed under section 2306 of the CARES Act."

SECTION 3.(b) G.S. 105-130.5(b) reads as rewritten:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

…"
(31) The amount of any expense not deducted under the Code to the extent that payment of the expense results in forgiveness of a covered loan pursuant to section 1106(b) of the CARES Act and the income associated with the forgiveness is excluded from gross income pursuant to section 1106(i) of the CARES Act. The term "covered loan" has the same meaning as defined in section 1106 of the CARES Act.

SECTION 4.(a) G.S. 105-153.5(a)(2)a. reads as rewritten:
"a. Charitable Contribution. – The amount allowed as a deduction for charitable contributions under section 170 of the Code for that taxable year. For taxable years 2014 through 2018, a taxpayer who elected to take the income exclusion under section 408(d)(8) of the Code for a qualified charitable distribution from an individual retirement plan by a person who has attained the age of 70 1/2 may deduct the amount that would have been allowed as a charitable deduction under section 170 of the Code had the taxpayer not elected to take the income exclusion. For taxable year 2020, notwithstanding G.S. 105-228.90(b)(1b), for purposes of this sub-subdivision the term "Code" means the Internal Revenue Code as enacted as of January 1, 2020. For taxable years beginning on or after January 1, 2021, a taxpayer may only carry forward the charitable contributions from taxable year 2020 that exceed the applicable percentage limitation for the 2020 taxable year allowed under this sub-subdivision. The purpose for defining the Internal Revenue Code differently for the 2020 taxable year is to decouple from the modification of limitations on charitable contributions during 2020 allowed under section 2205 of the CARES Act."

SECTION 4.(b) G.S. 105-153.5(a)(2)b. reads as rewritten:
"b. Mortgage Expense and Property Tax. – The amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence plus the amount allowed as a deduction for property taxes paid or accrued on real estate under section 164 of the Code for that taxable year. For taxable years 2014, 2015, 2016, and 2017, the amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence shall not include the amount for mortgage insurance premiums treated as qualified residence interest. The amount allowed under this sub-subdivision may not exceed twenty thousand dollars ($20,000). For spouses filing as married filing separately or married filing jointly, the total mortgage interest and real estate taxes claimed by both spouses combined may not exceed twenty thousand dollars ($20,000). For spouses filing as married filing separately with a joint obligation for mortgage interest and real estate taxes, the deduction for these items is allowable to the spouse who actually paid them. If the amount of the mortgage interest and real estate taxes paid by both spouses exceeds twenty thousand dollars ($20,000), these deductions must be prorated based on the percentage paid by each spouse. For joint obligations paid from joint accounts, the proration is based on the income reported by each spouse for that taxable year."

SECTION 4.(c) G.S. 105-153.5(c2) reads as rewritten:
Decoupling Adjustments. – In calculating North Carolina taxable income, a taxpayer must make the following adjustments to the taxpayer's adjusted gross income:

(1) For taxable years 2014, 2015, 2016, and 2017, 2014 through 2020, the taxpayer must add the amount excluded from the taxpayer's gross income for the discharge of qualified principal residence indebtedness under section 108 of the Code. The purpose of this subdivision is to decouple from the income exclusion available under federal tax law. If the taxpayer is insolvent, as defined in section 108(d)(3) of the Code, then the addition required under this subdivision is limited to the amount of discharge of qualified principal residence indebtedness excluded from adjusted gross income under section 108(a)(1)(E) of the Code that exceeds the amount of discharge of indebtedness that would have been excluded under section 108(a)(1)(B) of the Code.

(2) For taxable year 2014, 2015, 2016, and 2017, 2014 through 2020, the taxpayer must add the amount of the taxpayer's deduction for qualified tuition and related expenses under section 222 of the Code. The purpose of this subdivision is to decouple from the above-the-line deduction available under federal tax law.

(8) For taxable years 2013, 2014, 2015, 2016, or 2017, the taxpayer must add the amount of any 2018 net operating loss deducted and absorbed on a federal return under section 172 of the Code. The purpose of the adjustments made under this subdivision is to decouple from the net operating loss carryback provisions of section 2303 of the CARES Act. The addition under this subsection is not required to the extent the 2018 net operating loss is carried back under the provisions of section 172(b)(1)(B) of the Code.

(9) For taxable years 2014, 2015, 2016, 2017, or 2018, the taxpayer must add the amount of any 2019 net operating loss deducted and absorbed on a federal return under section 172 of the Code. The purpose of the adjustments made under this subdivision is to decouple from the net operating loss carryback provisions of section 2303 of the CARES Act. The addition under this subsection is not required to the extent the 2019 net operating loss is carried back under the provisions of section 172(b)(1)(B) of the Code.

(10) For taxable years 2015, 2016, 2017, 2018, or 2019, the taxpayer must add the amount of any 2020 net operating loss deducted and absorbed on a federal return under section 172 of the Code. The purpose of the adjustments made under this subdivision is to decouple from the net operating loss carryback provisions of section 2303 of the CARES Act. The addition under this subdivision is not required to the extent the 2020 net operating loss is carried back under the provisions of section 172(b)(1)(B) of the Code.

(11) For taxable years 2013, 2014, 2015, 2016, 2017, 2018, or 2019, the taxpayer must add the amount of any 2018, 2019, or 2020 net operating loss carried back and deducted on a federal return pursuant to section 2303(b) of the CARES Act but not absorbed in that year and carried forward to a subsequent year. The addition under this subsection is not required to the extent an addition is required under G.S. 105-153.5(c)(6). The purpose of the adjustments made under this subdivision is to decouple from the net operating loss carryback provision of section 2303 of the CARES Act.

(12) For taxable years 2018, 2019, and 2020, the taxpayer must add an amount equal to the taxpayer's excess business loss, as defined under the provisions of section 461(l) of the Internal Revenue Code as enacted as of January 1,
2019. The addition under this subdivision is not required to the extent the loss
is added under subdivision (8), (9), or (10) of this subsection.

(13) The taxpayer must add the amount by which the taxpayer's net operating loss
carryforward deduction exceeds the amount allowed under the provisions of
section 172(a)(2)(B) of the Internal Revenue Code as enacted as of January 1,
2019. This add-back only applies to net operating losses arising during taxable
years 2018, 2019, and 2020.

(14) For taxable years 2021 through 2025, a taxpayer who made an addition under
subdivision (8), (9), or (10) of this subsection may deduct twenty percent
(20%) per tax year of the sum of the amount added under subdivisions (8),
(9), and (10) of this subsection.

(15) A taxpayer who made an addition under subdivision (12) of this subsection
may deduct twenty percent (20%) of the addition in each of the taxable years
2021 through 2025.

(16) A taxpayer who made an addition under subdivision (13) of this subsection
may deduct twenty percent (20%) of the add-back in each of the taxable years
2021 through 2025.

(17) For taxable years 2019 and 2020, a taxpayer must add an amount equal to the
amount by which the taxpayer's interest expense deduction under section
163(j) of the Code exceeds the interest expense deduction that would have
been allowed under the Internal Revenue Code as enacted as of January 1,
2020. The purpose of this subdivision is to decouple from the modification of
limitation on business interest allowed under section 2306 of the CARES Act.

(18) For taxable year 2020, a taxpayer must add the amount excluded from the
taxpayer's gross income for payment by an employer, whether paid to the
taxpayer or to a lender, of principal or interest on any qualified education loan,
as defined in section 221(d)(1) of the Code, incurred by the taxpayer for
education of the taxpayer. The purpose of this subdivision is to decouple from
the exclusion for certain employer payments of student loans under section
2206 of the CARES Act.

(19) For taxable year 2020, a taxpayer must add the amount excluded from the
taxpayer's gross income under section 62(a)(22) of the Code. The purpose of
this subdivision is to decouple from the allowance of a partial above-the-line
deduction of qualified charitable contributions under section 2204 of the
CARES Act.

(20) A taxpayer may deduct the amount of any expense not deducted under the
Code to the extent that payment of the expense results in forgiveness of a
covered loan pursuant to section 1106(b) of the CARES Act and the income
associated with the forgiveness is excluded from gross income pursuant to
section 1106(i) of the CARES Act. The term "covered loan" has the same
meaning as defined in section 1106 of the CARES Act.

SECTION 5. This act is effective when it becomes law.