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

The General Assembly of North Carolina enacts:

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

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

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 This section is repealed for taxable years beginning on or after January 1, 2022.

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

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

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

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

(b) Wages of part-time employees.

(c) Holding Company. – Subject to the limitations of this section, a holding company may apply for a tax credit against the tax imposed under G.S. 105-120.2 if the only asset of the holding company is (i) an investment in a wholly owned operating subsidiary in this State or (ii)
an investment in a wholly owned holding company in this State whose only asset is an investment
in a wholly owned operating subsidiary in this State and the operating subsidiary meets the
employment retention eligibility requirements under subdivision (b)(2) of this section. A holding
company is not eligible for the credit based upon investment in this State.

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

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

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

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

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

SECTION 2.(c) These funds shall be expended only as allowed under the federal

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

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

SECTION 3.(c) The funds shall be expended only as allowed under the federal

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