



# SENATE BILL 848: COVID-19 Economic Recovery Grants.

**This Bill Analysis  
reflects the contents  
of the bill as it was  
presented in  
committee.**

2019-2020 General Assembly

<b>Committee:</b>	Senate Appropriations/Base Budget.	<b>If Date:</b>	June 16, 2020
	favorable, re-refer to Rules and Operations of the Senate		
<b>Introduced by:</b>	Sens. Newton, Hise, Tillman	<b>Prepared by:</b>	Cindy Avrette
<b>Analysis of:</b>	Second Edition		Staff Attorney

**OVERVIEW:** *Senate Bill 848 creates three different grant programs that are predicated on the use of federal CARES act funds to help business recover from the economic hardships endured during the COVID-19 pandemic and incent businesses to invest in North Carolina during and after the pandemic.*

*There are two amendments:*

- **S848-ARB-109:** *This amendment makes the following technical changes:*
  - *Corrects name of Main Street Lending Program*
  - *Specifies that the requirements of Part I of S.L. 2020-4 apply to the CRF funds*
  - *Changes the year to recognize some businesses file on a fiscal year that differs from a calendar year, and therefore the amount of unallocated grant funds may not be known until the end of 2023.*
- **S848-ARB-108:** *This amendment makes the following policy changes:*
  - *Opens the Job Retention Grant Program to nonprofits.*
  - *Disburses the Job Retention grants on a proportionate basis if more grants are requested than there is money available, rather than on a first-come-first-served basis.*
  - *Clarifies that the Increased Investment Grant Program is to be used to incent businesses to increase investment in North Carolina in 2020 and 2021.*
  - *Adds a qualification to the Increased Investment Grant Program that the Economic Investment Committee must find that the total benefits of the investment to the State render it appropriate for a grant.*
  - *Provides that up to 5% of the grant funds may be used to cover the cost of administering the grant program.*

**CURRENT LAW:** Congress enacted an estimated \$2 trillion stimulus package through the CARES Act to address many of the economic impacts of the COVID-19 pandemic. Part of the stimulus money was allocated to the states to be used for necessary expenditures incurred due to COVID-19. The Treasury issued guidance to the states on April 22, 2020 and has supplemented that guidance at least twice through "frequently asked questions" updates. At this time, it appears the funds must be spent by December 30, 2020. The funds may be used to assist small businesses with the costs of business disruptions caused by required closures or decreased customer demand as a result of COVID-19. The funds may not be used for government revenue replacement and cannot be used for capital improvement projects unless the projects are necessary expenditures incurred due to the COVID-19 public health emergency. States are responsible for making determinations as to what expenditures are necessary and do not need to submit any proposed

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expenditures to Treasury. Funds that are not spent in a manner consistent with the CARES Act are subject to recoupment by the Treasury Department.

**BILL ANALYSIS:** Senate Bill 848 would transfer \$200 million of the federal CARES Act funds to the General Fund, Coronavirus Relief Fund, to be used as follows:

- \$50M to provide grants to qualifying businesses that retained jobs in North Carolina during the COVID-19 pandemic.
- \$50M to provide grants to qualifying corporations that increase investment in the State over the next two years.
- \$100M to provide cash-grants to local governments in much the same way as One NC Funds are granted. Up to \$6M of this amount may be allocated to the Prosperity Zones.

The Department of Commerce is directed to notify the Office for Historically Underutilized Businesses (HUD), Department of Administration, as soon as practicable about the programs created under this act, and HUD is directed to identify historically underutilized businesses that may be eligible to apply for the grants and to inform and education those businesses as soon as practicable so they may have the opportunity to access the grant provided under these programs. A historically underutilized business is at least 51% owned by one or more minority persons or socially and economic disadvantaged individuals. The term "minority person" means a person who is Black, Hispanic, Asian American, American Indian, and/or female.

## COVID -19 Job Retention Program

This grant program is available to a business that retained in North Carolina at least 90% of its full-time employees, or full-time equivalent employees, during the period March 1 – May 31 that it employed in North Carolina at the end of February, suffered an economic loss during that time period compared to the same time period in the previous year, and did not participate in the Paycheck Protection Program or the Main Street Lending Program. The parameters of the program are based upon many of the guidelines in the Paycheck Protection Program. The maximum grant amount a business may receive under this program is \$500,000. The grants would be allocated on a first-come-first-served basis.

## COVID-19 Increased Investment Program

This grant program is available to a corporation that increased its investments in NC over the previous taxable year as demonstrated on its franchise tax return. The franchise tax is payable by C-corporations and S-corporations, not sole proprietors, partnerships, and limited liability companies. The grant would apply to increased investments over two tax years: 2021 and 2022. The benchmark year for 2021 would be the amount of investment calculated on the corporation's 2020 franchise tax return (remitted with the 2019 corporate income tax return), and the benchmark year for 2022 would be the amount of investment calculated on the corporation's 2021 franchise tax return. The amount of the grant would be five times the increased investment amount multiplied by 0.15%, the State's franchise tax rate. The grant amount would be payable in five equal installments over a five-year period. The grants would be allocated on a first-come-first-served basis.

## COVID-19 Local Government New Infrastructure Program

This grant program would be administered substantially the same as the State's One NC program, except that no local match would be required. The bill would appropriate \$100M to this program. One NC funds must be used for installation or purchase of equipment; structural repairs, improvements, or renovations to existing buildings; and construction or improvements to water, sewer, gas, or electric utility distribution lines.

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The bill provides that the Economic Investment Committee could allocate up to \$6M of the funds available under this Program to one or more of the eight prosperity zones created under G.S. 143B-28.1. The EIC could not allocate more than \$750,000 to any one prosperity zone, and the funds allocated to it may only be used as a match to receive federal funds for economic development in those zones.

**EFFECTIVE DATE:** The bill would become effective when it becomes law.

**BACKGROUND:** The purposes of the grant programs will need to be viewed considering Treasury guidance. It is the stated intent of the bill that funds may only be expended as allowed under the CARES Act and Treasury Guidance.

The NC Constitution prohibits the use of tax revenues for exclusive emoluments to a set of persons not available to the community, except for public service. It also limits the use of tax revenues for public purposes. The incentive grant programs currently allowed in the State involve minimum job growth and investment criteria to ensure an economic development purpose is substantiated, and the grant programs are available to all business regardless of how they are organized. The State has appropriated some of the federal CARES Act funds to Golden Leaf to be used for low-interest loans to businesses to avoid any constitutional challenge to a grant on the grounds that it would violate either of these constitutional provisions.