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REPORT OF THE SALES & USE TAX AND INCOME TAX SUBCOMMITTEE

(Clemmons, Hosey, Stavrinakis, Whitmire & Moss - Staff Contact: Michael Jackson)

HOUSE BILL 3210

H. 3210 -- Reps. Loftis, Clyburn, Collins and Burns: A BILL TO AMEND ACT 80 OF 2013, RELATING TO THE HIGH GROWTH SMALL BUSINESS JOB CREATION ACT, SO AS TO REAUTHORIZE THE ACT FOR AN ADDITIONAL SIX YEARS.

Received by Ways and Means:

December 18, 2018

Summary of Bill:

This bill will amend Section 1.B of Act 80 as it relates to the High Growth Small Business Job Creation Act of 2013. The amendment will extend the available tax credit for six additional years through December 31, 2025. Any carry forward credits shall continue to be allowed until the ten-year time period in Section 11-44-40 (B) is completed.

Estimated Revenue Impact:

This bill is not expected to impact expenditures for the Department of Revenue (DOR) or the Secretary of State. Both agencies are expected to continue administering the High Growth in Small Business Job Creation Act set to expire on December 31, 2019, until December 31, 2025, with existing staff and resources. The bill is expected to decrease General Fund individual income tax revenue by \$5,000,000 annually in FY 2020-21 through FY 2025-26.

Subcommittee Recommendation:

Pending



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number:	H. 3210	Introduced on January 8, 2019
Author:	Loftis	
Subject:	High Growth Small Business Job Creation Act (Angel Investor Act)	
Requestor:	House Ways and Means	
RFA Analyst(s):	Jolliff	
Impact Date:	March 14, 2019	

Fiscal Impact Summary

This bill is not expected to impact expenditures for the Department of Revenue (DOR) or the Secretary of State. Both agencies are expected to continue administering the High Growth in Small Business Job Creation Act set to expire on December 31, 2019, until December 31, 2025, with existing staff and resources. The bill is expected to decrease General Fund individual income tax revenue by \$5,000,000 annually in FY 2020-21 through FY 2025-26.

Explanation of Fiscal Impact

Introduced on January 8, 2019

State Expenditure

This bill extends the High Growth in Small Business Job Creation Act of 2013 set to expire on December 31, 2019, until December 31, 2025. The Act created a nonrefundable income tax credit for angel investors contributing capital to a qualified business. Angel investors accredited by the U.S. Securities and Exchange Commission and required to pay taxes in this state are eligible for the tax credit for investments in qualified businesses. In order to become a qualified business, a company must meet certain requirements and register with the Secretary of State. Qualified businesses must meet organizational requirements and primarily engage in manufacturing, processing, warehousing, wholesaling, software development, information technology services, research and development, or similar services.

Department of Revenue. The Act directs DOR to administer the tax credit. Because the total amount of credits allowed may not exceed \$5,000,000 for all taxpayers in a calendar year, investors are required to apply to DOR for preapproval of the credit. This ensures that the total amount of credits does not exceed the limitation. Each year DOR must notify taxpayers of the amount they may claim. If the total credits exceed the limitation, the tax credits must be allocated among the angel investors who filed a timely application on a pro rata basis.

Additionally, DOR is required to report to the House Ways and Means Committee, the Senate Finance Committee, and the Governor by county the number of angel investor tax credit applications the department has received, the number of applications approved, and the tax credits approved each year. Extending the availability of the credit through 2025 is not expected to impact expenditures for DOR, as the department is currently administering the tax credit and will continue this process.

Secretary of State. Businesses are required to register with the Secretary of State to ensure that they meet the requirements of the Act. Further, the Secretary is required to produce an annual report to the House Ways and Means Committee, the Senate Finance Committee, and the Governor listing the businesses that have registered with the Secretary as qualified businesses and other relevant statistics on the program. Based upon previous information from the Secretary of State's Office regarding similar legislation, extending the availability of the credit through 2025 is not expected to impact expenditures for the agency, as staff is currently performing these responsibilities and will continue this process.

State Revenue

This bill extends the High Growth in Small Business Job Creation Act of 2013 set to expire on December 31, 2019, until December 31, 2025. Under the Act, an angel investor is entitled to a nonrefundable income tax credit of 35 percent of its qualified investment. Of the credit amount earned, 50 percent of the credit may be applied to the angel investor's net income tax liability in the tax year during which the qualified investment is made, and 50 percent of the credit may be applied to the angel investor's net income tax liability in the tax years after the investment is made. The credit may be carried forward for up to ten years.

The total amount of credits allowed may not exceed \$5,000,000 for all taxpayers in a calendar year. The aggregate credit amount earned by an individual for one or more qualified investments in a tax year, either directly or allocated to a person by a pass-through entity, is limited to \$100,000. The credit is transferrable and may be sold, exchanged, or otherwise transferred. However, a tax credit or increment thereof may only be transferred once.

The amount of tax credits approved by DOR has grown annually since the inception of the Act. DOR approved \$3,820,956 in tax credits for 2016 and the maximum of \$5,000,000 for 2017. Based upon this experience, we anticipate that tax credits will reach the maximum in future years as well. Extending the tax credit for tax years 2020 through 2025 is expected to decrease General Fund individual income tax revenue by \$5,000,000 annually in FY 2020-21 through FY 2025-26.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director

South Carolina General Assembly
123rd Session, 2019-2020

H. 3210

STATUS INFORMATION

General Bill

Sponsors: Reps. Loftis, Clyburn, Collins, Burns, Clary, W. Cox, Morgan, Hyde, Stringer, Elliott, B. Cox, Gagnon, Caskey, Bannister, Willis, Sottile, Stavrinakis, Daning, Blackwell, Taylor, Forrester, Fry, West, Finlay, Simrill, V.S. Moss, Bryant, Bales, D.C. Moss, Erickson, Herbkersman and Whitmire

Document Path: I:\council\bill\ncbd\11052dg19.docx

Companion/Similar bill(s): 185

Introduced in the House on January 8, 2019

Currently residing in the House Committee on **Ways and Means**

Summary: High Growth Small Business Job Creation Act (Angel Investor Act), extend sunset provisions

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
12/18/2018	House	Prefiled
12/18/2018	House	Referred to Committee on Labor, Commerce and Industry
1/8/2019	House	Introduced and read first time (House Journal-page 128)
1/8/2019	House	Referred to Committee on Labor, Commerce and Industry (House Journal-page 128)
1/17/2019	House	Member(s) request name added as sponsor: Collins
1/29/2019	House	Member(s) request name added as sponsor: Burns
1/29/2019	House	Recalled from Committee on Labor, Commerce and Industry (House Journal-page 31)
1/29/2019	House	Committed to Committee on Ways and Means (House Journal-page 31)
1/30/2019	House	Member(s) request name added as sponsor: Clary, W.Cox, Morgan, Hyde, Stringer
3/20/2019	House	Member(s) request name added as sponsor: Elliott, B.Cox, Gagnon, Caskey, Bannister, Willis, Sottile, Stavrinakis, Daning, Blackwell, Taylor, Forrester, Fry, West, Finlay, Simrill, V.S.Moss, Bryant, Bales, D.C.Moss, Erickson, Herbkersman, Whitmire

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VERSIONS OF THIS BILL

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A BILL

TO AMEND ACT 80 OF 2013, RELATING TO THE HIGH GROWTH SMALL BUSINESS JOB CREATION ACT, SO AS TO REAUTHORIZE THE ACT FOR AN ADDITIONAL SIX YEARS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 1.B. of Act 80 of 2013 is amended to read:

“B. The provisions of Chapter 44, Title 11, contained in this act are repealed on December 31, ~~2019~~ 2025. Any carry forward credits shall continue to be allowed until the ten year time period in Section 11-44-40(B) is completed.”

SECTION 2. This act takes effect upon approval by the Governor.

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