

House Bill 239

By: Representative Williamson of the 112th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,
2 relating to imposition, rate, computation, exemptions, and credits relative to state income tax,
3 so as to expand the credits allowable for purchases and acquisitions of qualified investment
4 property for manufacturing and telecommunications facilities to include aggregate or mineral
5 mining facilities; to revise definitions; to provide for an effective date and application; to
6 provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
10 imposition, rate, computation, exemptions, and credits relative to state income tax, is
11 amended by revising Code Section 48-7-40.2, relating to tax credits for existing
12 manufacturing and telecommunications facilities in tier 1 counties, as follows:

13 "48-7-40.2.

14 (a) As used in this Code section, the term:

15 (1) 'Product' means a marketable product or component of a product which has an
16 economic value to the wholesale or retail consumer and is ready to be used without

17 further alteration of its form, or a product or material which is marketed as a prepared
18 material or is a component in the manufacturing and assembly of other finished products.

19 (2) 'Qualified investment property' means all real and personal property purchased or
20 acquired by a taxpayer for use in the construction of an additional manufacturing,
21 aggregate or mineral mining, or telecommunications facility to be located in this state or
22 the expansion of an existing manufacturing, aggregate or mineral mining, or
23 telecommunications facility located in this state, including, but not limited to, amounts
24 expended on land acquisition, improvements, buildings, building improvements, and
25 machinery and equipment to be used in the manufacturing, aggregate or mineral mining,
26 or telecommunications facility. The department shall promulgate rules defining eligible
27 manufacturing facilities, aggregate or mineral mining facilities, telecommunications
28 facilities, and qualified investment property pursuant to this paragraph.

29 (3) 'Recovered materials' means those materials, including, but not limited to, such
30 materials as aluminum, oil, plastic, paper, paper products, scrap metal, iron, glass, and
31 rubber, which have known use, reuse, or recycling potential; can be feasibly used, reused,
32 or recycled; and have been diverted or removed from the solid waste stream for sale, use,
33 reuse, or recycling, whether or not requiring subsequent separation and processing.

34 (4) 'Recycling' means any process by which materials which would otherwise become
35 solid waste are collected, separated, or processed and reused or returned to use in the
36 form of raw materials or products.

37 (5) 'Recycling machinery and equipment' means all tangible personal property used,
38 directly or indirectly, to sort, store, prepare, convert, process, fabricate, or manufacture
39 recovered materials into finished products which are composed of at least 25 percent
40 recovered materials, such term including, but not being limited to, power generation and
41 pollution control machinery and equipment.

42 (6) 'Recycling manufacturing facility' means any facility, including land, improvements
43 to land, buildings, building improvements, and any recycling machinery and equipment

44 used in the recycling process resulting in the manufacture of finished products from
45 recovered materials, provided that up to 10 percent of any building that is a component
46 of a recycling facility may be used for office space to house support staff for the recycling
47 operation.

48 (7) 'Rural county' means a county that has a population of less than 50,000 with 10
49 percent or more of such population living in poverty based upon the most recent, reliable,
50 and applicable data published by the United States Bureau of the Census. On or before
51 December 31 of each year, the commissioner of the Department of Community Affairs
52 shall publish a list of such counties.

53 (b) In the case of a taxpayer which has operated for the immediately preceding three years
54 an existing manufacturing, aggregate or mineral mining, or telecommunications facility or
55 a manufacturing, aggregate or mineral mining, or telecommunications support facility in
56 this state in a tier 1 county designated pursuant to Code Section 48-7-40, there shall be
57 allowed a credit against the tax imposed under this article in an amount equal to 5 percent
58 of the cost of all qualified investment property purchased or acquired by the taxpayer in
59 such year, subject to the conditions and limitations set forth in this Code section. In the
60 event such qualified investment property purchased or acquired by the taxpayer in such
61 year consists of recycling machinery or equipment, a recycling manufacturing facility,
62 pollution control or prevention machinery or equipment, a pollution control or prevention
63 facility, or the conversion from defense to domestic production, the amount of such credit
64 shall be equal to 8 percent.

65 (c) The credit granted under subsection (b) of this Code section shall be subject to the
66 following conditions and limitations:

67 (1) In order to qualify as a basis for the credit, the investment in qualified investment
68 property must occur no sooner than January 1, 1995. The credit may be taken beginning
69 with the tax year immediately following the tax year in which the qualified investment
70 property having an aggregate cost in excess of \$50,000.00 is purchased or acquired by

71 the taxpayer; provided, however, that for tax years beginning on or after January 1, 2020,
72 the credit may only be taken beginning with the tax year immediately following the tax
73 year in which the qualified investment property having an aggregate cost in excess of
74 \$100,000.00 is purchased or acquired by the taxpayer. For every year in which a
75 taxpayer claims the credit, the taxpayer shall attach a schedule to the taxpayer's Georgia
76 income tax return which will set forth the following information, as a minimum:

- 77 (A) A description of the project;
- 78 (B) The amount of qualified investment property acquired during the taxable year;
- 79 (C) The amount of tax credit claimed for the taxable year;
- 80 (D) The amount of qualified investment property acquired in prior taxable years;
- 81 (E) Any tax credit utilized by the taxpayer in prior taxable years;
- 82 (F) The amount of tax credit carried over from prior years;
- 83 (G) The amount of tax credit utilized by the taxpayer in the current taxable year; and
- 84 (H) The amount of tax credit to be carried over to subsequent tax years;
- 85 (2)(A) Any credit claimed under this Code section but not used in any taxable year
86 may be carried forward for ten years from the close of the taxable year in which the
87 qualified investment property was acquired, provided that such qualified investment
88 property remains in service:
- 89 (B)(i) The credit established by this Code section taken in any one taxable year shall
90 be limited to an amount not greater than 50 percent of the taxpayer's state income tax
91 liability which is attributable to income derived from operations in this state for that
92 taxable year.
- 93 (ii) Notwithstanding division (i) of this subparagraph, for credit earned pursuant to
94 this Code section from purchases of qualified investment property for a
95 manufacturing, aggregate or mineral mining, or telecommunications facility in a rural
96 county made on or after January 1, 2020, such credit shall:

97 (I) First be applied to such taxpayer's state income tax liability which is attributable
98 to income derived from operations in this state for that taxable year, limited to 50
99 percent of such liability before application of such credit; and

100 (II) If the amount of such credit exceeds the limit set forth in subdivision (I) of this
101 division, the excess may be taken as a credit of up to \$1 million for any one taxable
102 year against such taxpayer's quarterly or monthly payments under Code Section
103 48-7-103, provided that such \$1 million limit shall be reduced by any amount taken
104 by such taxpayer pursuant to subdivision (c)(2)(B)(ii)(II) of Code Section
105 48-7-40.3. Each employee for whom an employer receives credit against such
106 employer's quarterly or monthly payment under Code Section 48-7-103 shall
107 receive credit against his or her income tax liability under Code Section 48-7-20 for
108 the corresponding taxable year for the full amount which would be credited against
109 such liability prior to the application of the credit provided for in this paragraph.
110 Credits against quarterly or monthly payments under Code Section 48-7-103 and
111 credits against liability under Code Section 48-7-20 established by this
112 subparagraph shall not constitute income to the employee;

113 provided, however, that credit allowed and used pursuant to subdivision (II) of this
114 division and pursuant to subdivision (c)(2)(B)(ii)(II) of Code Section 48-7-40.3 shall
115 not exceed \$10 million in aggregate for all taxpayers for any calendar year. The
116 commissioner shall establish an application process to ensure that the \$10 million
117 aggregate maximum and the \$1 million per taxpayer maximum are not exceeded. If
118 applications for such credit exceed \$10 million for the calendar year, the commissioner
119 shall allow for the credit to be applied to all eligible applicants in prorated amounts
120 among such applicants, not to exceed \$10 million for the calendar year.

121 (C) The sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new
122 eligibility in any succeeding taxpayer, but any unused credit may be transferred and
123 continued by any transferee of the taxpayer;

124 (D) The automatic repeal of paragraph (2.1) of this subsection on December 31, 2024,
125 shall not impair or affect a taxpayer's ability or right to apply an unused credit for a
126 taxable year after December 31, 2024, that such taxpayer accrued pursuant to and under
127 the conditions of said paragraph prior to its automatic repeal.

128 (2.1)(A) Any credit claimed prior to January 1, 2020, pursuant to this Code section by
129 a taxpayer that remains unused by such taxpayer may be applied pursuant to
130 subparagraph (B) of this paragraph for any taxable year beginning on or after January 1,
131 2020, for which such credit may be carried forward pursuant to paragraph (2) of this
132 subsection provided that within a single taxable year beginning on or after January 1,
133 2020, such taxpayer:

134 (i) Maintains within rural counties at least 100 full-time employee jobs as such term
135 is defined in Code Section 48-7-40.24; and

136 (ii) Purchases or acquires at least \$5 million of qualified investment property for
137 manufacturing, aggregate or mineral mining, or telecommunications facilities within
138 rural counties.

139 (B) Subject to the requirements established by subparagraph (A) of this paragraph, a
140 taxpayer may elect to apply such credit that has been carried forward as allowed
141 pursuant to division (ii) of subparagraph (B) of paragraph (2) of this Code section.

142 (C)(i) Qualified investment property purchased or acquired in connection with
143 division (ii) of subparagraph (A) of this paragraph may be eligible for credit granted
144 under subsection (b) of this Code section, provided that the conditions for such credit
145 are met independently of this paragraph. Any such new credit earned shall be applied
146 as provided in paragraph (2) of this subsection.

147 (ii) For the taxable year in which the jobs that are required to be maintained in
148 division (i) of subparagraph (A) of this subsection are maintained, such jobs shall not
149 be eligible to be used or claimed as the basis for any other tax credit or benefit
150 allowed by state law.

- 151 (D) This paragraph shall not extend the carry forward period for any credit.
- 152 (E) This paragraph shall stand repealed by operation of law on the last moment of
153 December 31, 2024;
- 154 (3) In the initial year in which the taxpayer claims the credit granted in subsection (b) of
155 this Code section, the taxpayer shall include in the description of the project required by
156 subparagraph (A) of paragraph (1) of this subsection, information which demonstrates
157 that the project includes the acquisition of qualified investment property having an
158 aggregate cost in excess of the amount required by paragraph (1) of this subsection;
- 159 (4) Any lease for a period of five years or longer of any real or personal property used
160 in a new or expanded manufacturing, aggregate or mineral mining, or
161 telecommunications facility which would otherwise constitute qualified investment
162 property shall be treated as the purchase or acquisition of qualified investment property
163 by the lessee. The taxpayer may treat the full value of the leased property as qualified
164 investment property in the taxable year in which the lease becomes binding on the lessor
165 and the taxpayer if all other conditions of this subsection have been met; and
- 166 (5) The utilization of the credit granted in subsection (b) of this Code section shall have
167 no effect on the taxpayer's ability to claim depreciation for tax purposes on the assets
168 acquired by the taxpayer, nor shall the credit have any effect on the taxpayer's basis in
169 such assets for the purpose of depreciation.
- 170 (d) No taxpayer shall be authorized to claim on a tax return for a given project the credit
171 provided for in this Code section if such taxpayer claims on such tax return any of the
172 credits authorized under Code Section 48-7-40 or 48-7-40.1."

173 **SECTION 2.**

174 Said article is further amended by revising Code Section 48-7-40.3, relating to tax credits for
175 existing manufacturing and telecommunications facilities in tier 2 counties, as follows:

176 "48-7-40.3.

177 (a) As used in this Code section, the term:

178 (1) 'Product' means a marketable product or component of a product which has an
179 economic value to the wholesale or retail consumer and is ready to be used without
180 further alteration of its form or a product or material which is marketed as a prepared
181 material or is a component in the manufacturing and assembly of other finished products.

182 (2) 'Qualified investment property' means all real and personal property purchased or
183 acquired by a taxpayer for use in the construction of an additional manufacturing,
184 aggregate or mineral mining, or telecommunications facility to be located in this state
185 or the expansion of an existing manufacturing, aggregate or mineral mining, or
186 telecommunications facility located in this state, including, but not limited to, amounts
187 expended on land acquisition, improvements, buildings, building improvements, and
188 machinery and equipment to be used in the manufacturing, aggregate or mineral mining,
189 or telecommunications facility. The department shall promulgate rules defining eligible
190 manufacturing facilities, aggregate or mineral mining facilities, telecommunications
191 facilities, and qualified investment property pursuant to this paragraph.

192 (3) 'Recovered materials' means those materials, including but not limited to such
193 materials as aluminum, oil, plastic, paper, paper products, scrap metal, iron, glass, and
194 rubber, which have known use, reuse, or recycling potential; can be feasibly used, reused,
195 or recycled; and have been diverted or removed from the solid waste stream for sale, use,
196 reuse, or recycling, whether or not requiring subsequent separation and processing.

197 (4) 'Recycling' means any process by which materials which would otherwise become
198 solid waste are collected, separated, or processed and reused or returned to use in the
199 form of raw materials or products.

200 (5) 'Recycling machinery and equipment' means all tangible personal property used,
201 directly or indirectly, to sort, store, prepare, convert, process, fabricate, or manufacture
202 recovered materials into products which are composed of at least 25 percent recovered

203 materials, such term including, but not being limited to, power generation and pollution
204 control machinery and equipment.

205 (6) 'Recycling manufacturing facility' means any facility, including land, improvements
206 to land, buildings, building improvements, and any recycling machinery and equipment
207 used in the recycling process resulting in the manufacture of products from recovered
208 materials, provided that up to 10 percent of any building that is a component of a
209 recycling facility may be used for office space to house support staff for the recycling
210 operation.

211 (7) 'Rural county' means a county that has a population of less than 50,000 with 10
212 percent or more of such population living in poverty based upon the most recent, reliable,
213 and applicable data published by the United States Bureau of the Census. On or before
214 December 31 of each year, the commissioner of the Department of Community Affairs
215 shall publish a list of such counties.

216 (b) In the case of a taxpayer which has operated for the immediately preceding three years
217 an existing manufacturing, aggregate or mineral mining, or telecommunications facility or
218 manufacturing, aggregate or mineral mining, or telecommunications support facility in this
219 state in a tier 2 county designated pursuant to Code Section 48-7-40, there shall be allowed
220 a credit against the tax imposed under this article in an amount equal to 3 percent of the
221 cost of all qualified investment property purchased or acquired by the taxpayer in such
222 year, subject to the conditions and limitations set forth in this Code section. In the event
223 such qualified investment property purchased or acquired by the taxpayer in such year
224 consists of recycling machinery or equipment, a recycling manufacturing facility, pollution
225 control or prevention machinery or equipment, a pollution control or prevention facility,
226 or the conversion from defense to domestic production, the amount of such credit shall be
227 equal to 5 percent.

228 (c) The credit granted under subsection (b) of this Code section shall be subject to the
229 following conditions and limitations:

230 (1) In order to qualify as a basis for the credit, the investment in qualified investment
231 property must occur no sooner than January 1, 1995. The credit may be taken beginning
232 with the tax year immediately following the tax year in which the qualified investment
233 property having an aggregate cost in excess of \$50,000.00 is purchased or acquired by
234 the taxpayer; provided, however, that for tax years beginning on or after January 1, 2020,
235 the credit may only be taken beginning with the tax year immediately following the tax
236 year in which the qualified investment property having an aggregate cost in excess of
237 \$100,000.00 is purchased or acquired by the taxpayer. For every year in which a
238 taxpayer claims the credit, the taxpayer shall attach a schedule to the taxpayer's Georgia
239 income tax return which will set forth the following information, as a minimum:

- 240 (A) A description of the project;
 - 241 (B) The amount of qualified investment property acquired during the taxable year;
 - 242 (C) The amount of tax credit claimed for the taxable year;
 - 243 (D) The amount of qualified investment property acquired in prior taxable years;
 - 244 (E) Any tax credit utilized by the taxpayer in prior taxable years;
 - 245 (F) The amount of tax credit carried over from prior years;
 - 246 (G) The amount of tax credit utilized by the taxpayer in the current taxable year; and
 - 247 (H) The amount of tax credit to be carried over to subsequent tax years;
- 248 (2)(A) Any credit claimed under this Code section but not used in any taxable year
249 may be carried forward for ten years from the close of the taxable year in which the
250 qualified investment property was acquired, provided that such qualified investment
251 property remains in service.
- 252 (B)(i) The credit established by this Code section taken in any one taxable year shall
253 be limited to an amount not greater than 50 percent of the taxpayer's state income tax
254 liability which is attributable to income derived from operations in this state for that
255 taxable year.

256 (ii) Notwithstanding division (i) of this subparagraph, for credit earned pursuant to
257 this Code section from purchases of qualified investment property for a
258 manufacturing, aggregate or mineral mining, or telecommunications facility in a rural
259 county made on or after January 1, 2020, such credit shall:

260 (I) First be applied to such taxpayer's state income tax liability which is attributable
261 to income derived from operations in this state for that taxable year, limited to 50
262 percent of such liability before application of such credit; and

263 (II) If the amount of such credit exceeds the limit set forth in subdivision (I) of this
264 division, the excess may be taken as a credit of up to \$1 million for any one taxable
265 year against such taxpayer's quarterly or monthly payments under Code Section
266 48-7-103, provided that such \$1 million limit shall be reduced by any amount taken
267 by such taxpayer pursuant to subdivision (c)(2)(B)(ii)(II) of Code Section
268 48-7-40.2. Each employee for whom an employer receives credit against such
269 employer's quarterly or monthly payment under Code Section 48-7-103 shall
270 receive credit against his or her income tax liability under Code Section 48-7-20 for
271 the corresponding taxable year for the full amount which would be credited against
272 such liability prior to the application of the credit provided for in this paragraph.
273 Credits against quarterly or monthly payments under Code Section 48-7-103 and
274 credits against liability under Code Section 48-7-20 established by this
275 subparagraph shall not constitute income to the employee;

276 provided, however, that credit allowed and used pursuant to subdivision (II) of this
277 division and pursuant to subdivision (c)(2)(B)(ii)(II) of Code Section 48-7-40.2 shall
278 not exceed \$10 million in aggregate for all taxpayers for any calendar year. The
279 commissioner shall establish an application process to ensure that the \$10 million
280 aggregate maximum and the \$1 million per taxpayer maximum are not exceeded. If
281 applications for such credit exceed \$10 million for the calendar year, the commissioner

282 shall allow for the credit to be applied to all eligible applicants in prorated amounts
283 among such applicants, not to exceed \$10 million for the calendar year.

284 (C) The sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new
285 eligibility in any succeeding taxpayer, but any unused credit may be transferred and
286 continued by any transferee of the taxpayer;

287 (D) The automatic repeal of paragraph (2.1) of this subsection on December 31, 2024,
288 shall not impair or affect a taxpayer's ability or right to apply an unused credit for a
289 taxable year after December 31, 2024, that such taxpayer accrued pursuant to and under
290 the conditions of said paragraph prior to its automatic repeal.

291 (2.1)(A) Any credit claimed prior to January 1, 2020, pursuant to this Code section by
292 a taxpayer that remains unused by such taxpayer may be applied pursuant to
293 subparagraph (B) of this paragraph for any taxable year beginning on or after January 1,
294 2020, for which such credit may be carried forward pursuant to paragraph (2) of this
295 subsection provided that within a single taxable year beginning on or after January 1,
296 2020, such taxpayer:

297 (i) Maintains within rural counties at least 100 full-time employee jobs as such term
298 is defined in Code Section 48-7-40.24; and

299 (ii) Purchases or acquires at least \$10 million of qualified investment property for
300 manufacturing, aggregate or mineral mining, or telecommunications facilities within
301 rural counties.

302 (B) Subject to the requirements established by subparagraph (A) of this paragraph, a
303 taxpayer may elect to apply such credit that has been carried forward as allowed
304 pursuant to division (ii) of subparagraph (B) of paragraph (2) of this Code section.

305 (C)(i) Qualified investment property purchased or acquired in connection with
306 division (ii) of subparagraph (A) of this paragraph may be eligible for credit granted
307 under subsection (b) of this Code section, provided that the conditions for such credit

308 are met independently of this paragraph. Any such new credit earned shall be applied
309 as provided in paragraph (2) of this subsection.

310 (ii) For the taxable year in which the jobs that are required to be maintained in
311 division (i) of subparagraph (A) of this subsection are maintained, such jobs shall not
312 be eligible to be used or claimed as the basis for any other tax credit or benefit
313 allowed by state law.

314 (D) This paragraph shall not extend the carry forward period for any credit.

315 (E) This paragraph shall stand repealed by operation of law on the last moment of
316 December 31, 2024;

317 (3) In the initial year in which the taxpayer claims the credit granted in subsection (b) of
318 this Code section, the taxpayer shall include in the description of the project required by
319 subparagraph (A) of paragraph (1) of this subsection information which demonstrates that
320 the project includes the acquisition of qualified investment property having an aggregate
321 cost in excess of the amount required by paragraph (1) of this subsection;

322 (4) Any lease for a period of five years or longer of any real or personal property used
323 in a new or expanded manufacturing, aggregate or mineral mining, or
324 telecommunications facility which would otherwise constitute qualified investment
325 property shall be treated as the purchase or acquisition of qualified investment property
326 by the lessee. The taxpayer may treat the full value of the leased property as qualified
327 investment property in the taxable year in which the lease becomes binding on the lessor
328 and the taxpayer if all other conditions of this subsection have been met; and

329 (5) The utilization of the credit granted in subsection (b) of this Code section shall have
330 no effect on the taxpayer's ability to claim depreciation for tax purposes on the assets
331 acquired by the taxpayer, nor shall the credit have any effect on the taxpayer's basis in
332 such assets for the purpose of depreciation.

333 (d) No taxpayer shall be authorized to claim on a tax return for a given project the credit
334 provided for in this Code section if such taxpayer claims on such tax return any of the
335 credits authorized under Code Section 48-7-40 or 48-7-40.1."

336

SECTION 3.

337 Said article is further amended by revising Code Section 48-7-40.4, relating to tax credits for
338 existing manufacturing and telecommunications facilities or manufacturing and
339 telecommunications support facilities in tier 3 or 4 counties, as follows:

340 "48-7-40.4.

341 (a) As used in this Code section, the term:

342 (1) 'Product' means a marketable product or component of a product which has an
343 economic value to the wholesale or retail consumer and is ready to be used without
344 further alteration of its form or a product or material which is marketed as a prepared
345 material or is a component in the manufacturing and assembly of other finished products.

346 (2) 'Qualified investment property' means all real and personal property purchased or
347 acquired by a taxpayer for use in the construction of an additional manufacturing,
348 aggregate or mineral mining, or telecommunications facility to be located in this state or
349 the expansion of an existing manufacturing, aggregate or mineral mining, or
350 telecommunications facility located in this state, including, but not limited to, amounts
351 expended on land acquisition, improvements, buildings, building improvements, and
352 machinery and equipment to be used in the manufacturing, aggregate or mineral mining,
353 or telecommunications facility. The department shall promulgate rules defining eligible
354 manufacturing facilities, aggregate or mineral mining facilities, telecommunications
355 facilities, and qualified investment property pursuant to this paragraph.

356 (3) 'Recovered materials' means those materials, including but not limited to such
357 materials as aluminum, oil, plastic, paper, paper products, scrap metal, iron, glass, and
358 rubber, which have known use, reuse, or recycling potential; can be feasibly used, reused,

359 or recycled; and have been diverted or removed from the solid waste stream for sale, use,
360 reuse, or recycling, whether or not requiring subsequent separation and processing.

361 (4) 'Recycling' means any process by which materials which would otherwise become
362 solid waste are collected, separated, or processed and reused or returned to use in the
363 form of raw materials or products.

364 (5) 'Recycling machinery and equipment' means all tangible personal property used,
365 directly or indirectly, to sort, store, prepare, convert, process, fabricate, or manufacture
366 recovered materials into products which are composed of at least 25 percent recovered
367 materials, such term including, but not being limited to, power generation and pollution
368 control machinery and equipment.

369 (6) 'Recycling manufacturing facility' means any facility, including land, improvements
370 to land, buildings, building improvements, and any recycling machinery and equipment
371 used in the recycling process resulting in the manufacture of products from recovered
372 materials, provided that up to 10 percent of any building that is a component of a
373 recycling facility may be used for office space to house support staff for the recycling
374 operation.

375 (b) In the case of a taxpayer which has operated for the immediately preceding three years
376 an existing manufacturing, aggregate or mineral mining, or telecommunications facility or
377 manufacturing, aggregate or mineral mining, or telecommunications support facility in this
378 state in a tier 3 or a tier 4 county designated pursuant to Code Section 48-7-40, there shall
379 be allowed a credit against the tax imposed under this article in an amount equal to 1
380 percent of the cost of all qualified investment property purchased or acquired by the
381 taxpayer in such year, subject to the conditions and limitations set forth in this Code
382 section. In the event such qualified investment property purchased or acquired by the
383 taxpayer in such year consists of recycling machinery or equipment, a recycling
384 manufacturing facility, pollution control or prevention machinery or equipment, a pollution

385 control or prevention facility, or the conversion from defense to domestic production, the
386 amount of such credit shall be equal to 3 percent.

387 (c) The credit granted under subsection (b) of this Code section shall be subject to the
388 following conditions and limitations:

389 (1) In order to qualify as a basis for the credit, the investment in qualified investment
390 property must occur no sooner than January 1, 1995. The credit may be taken beginning
391 with the tax year immediately following the tax year in which the qualified investment
392 property having an aggregate cost in excess of \$50,000.00 is purchased or acquired by
393 the taxpayer; provided, however, that for tax years beginning on or after January 1, 2020,
394 the credit may only be taken beginning with the tax year immediately following the tax
395 year in which the qualified investment property having an aggregate cost in excess of
396 \$100,000.00 is purchased or acquired by the taxpayer. For every year in which a
397 taxpayer claims the credit, the taxpayer shall attach a schedule to the taxpayer's Georgia
398 income tax return which will set forth the following information, as a minimum:

399 (A) A description of the project;

400 (B) The amount of qualified investment property acquired during the taxable year;

401 (C) The amount of tax credit claimed for the taxable year;

402 (D) The amount of qualified investment property acquired in prior taxable years;

403 (E) Any tax credit utilized by the taxpayer in prior taxable years;

404 (F) The amount of tax credit carried over from prior years;

405 (G) The amount of tax credit utilized by the taxpayer in the current taxable year; and

406 (H) The amount of tax credit to be carried over to subsequent tax years;

407 (2) Any credit claimed under this Code section but not used in any taxable year may be
408 carried forward for ten years from the close of the taxable year in which the qualified
409 investment property was acquired, provided that such qualified investment property
410 remains in service. The credit established by this Code section taken in any one taxable
411 year shall be limited to an amount not greater than 50 percent of the taxpayer's state

412 income tax liability which is attributable to income derived from operations in this state
413 for that taxable year. The sale, merger, acquisition, or bankruptcy of any taxpayer shall
414 not create new eligibility in any succeeding taxpayer, but any unused credit may be
415 transferred and continued by any transferee of the taxpayer;

416 (3) In the initial year in which the taxpayer claims the credit granted in subsection (b) of
417 this Code section, the taxpayer shall include in the description of the project required by
418 subparagraph (A) of paragraph (1) of this subsection information which demonstrates that
419 the project includes the acquisition of qualified investment property having an aggregate
420 cost in excess of the amount required by paragraph (1) of this subsection;

421 (4) Any lease for a period of five years or longer of any real or personal property used
422 in a new or expanded manufacturing, aggregate or mineral mining, or
423 telecommunications facility which would otherwise constitute qualified investment
424 property shall be treated as the purchase or acquisition of qualified investment property
425 by the lessee. The taxpayer may treat the full value of the leased property as qualified
426 investment property in the taxable year in which the lease becomes binding on the lessor
427 and the taxpayer if all other conditions of this subsection have been met; and

428 (5) The utilization of the credit granted in subsection (b) of this Code section shall have
429 no effect on the taxpayer's ability to claim depreciation for tax purposes on the assets
430 acquired by the taxpayer, nor shall the credit have any effect on the taxpayer's basis in
431 such assets for the purpose of depreciation.

432 (d) No taxpayer shall be authorized to claim on a tax return for a given project the credit
433 provided for in this Code section if such taxpayer claims on such tax return any of the
434 credits authorized under Code Section 48-7-40 or 48-7-40.1."

435

SECTION 4.

436 This Act shall become effective on July 1, 2024, and shall be applicable to taxable years
437 beginning on or after January 1, 2024, and qualifying purchases or acquisitions on or after
438 July 1, 2024.

439

SECTION 5.

440 All laws and parts of laws in conflict with this Act are repealed.