

House Bill 504

By: Representatives Williamson of the 115<sup>th</sup>, Reeves of the 34<sup>th</sup>, Burns of the 159<sup>th</sup>, Knight of the 130<sup>th</sup>, Blackmon of the 146<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 33-1-25 of the Official Code of Georgia Annotated, relating to the  
2 "Georgia Agribusiness and Rural Jobs Act," so as to provide for a second round of funding  
3 and period for applications; to increase an application fee and provide for an annual  
4 maintenance fee; to change certain reporting requirements; to revise and provide for  
5 definitions; to amend Title 48 of the Official Code of Georgia Annotated, relating to revenue  
6 and taxation, so as to provide for a tax credit for medical equipment and supplies  
7 manufacturers and pharmaceutical and medicine manufacturers; to provide for definitions;  
8 to provide for conditions and limitations on certain tax credits; to provide for tax credits for  
9 high-impact aerospace defense projects; to permit tax credits for port traffic increases to be  
10 applied against payroll withholding; to revise a job tax credit; to allow such tax credit to be  
11 taken in conjunction with certain other tax credits; to revise a manufacturing tax credit; to  
12 change jobs limit and revise the requirements for such tax credit for certain projects; to  
13 change the aggregate credit cap for certain projects; to extend an income tax credit for  
14 expenditures on the maintenance of railroad track owned or leased by Class III railroads; to  
15 provide for related matters; to provide for an effective date; to repeal conflicting laws; and  
16 for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 504

**PART I**  
**SECTION 1-1.**

Code Section 33-1-25 of the Official Code of Georgia Annotated, relating to the "Georgia Agribusiness and Rural Jobs Act," is amended in subsection (b) by revising paragraphs (3) and (6) and adding a new paragraph to read as follows:

“(1) '2021 allocation' means the second round of funding provided for in paragraph (6.1) of subsection (e) of this Code section.”

“(3) 'Capital investment' means any equity investment in a rural fund by a rural investor that:

(A) Is acquired after July 1, 2017, at its original issuance solely in exchange for cash;

(B) Has 100 percent of its cash purchase price used by the rural fund to make qualified investments in eligible businesses located in this state by the second anniversary of the initial credit allowance date; and

(C) Is designated by the rural fund as a capital investment under this Code section and is certified by the department pursuant to subsection (e) of this Code section. This term shall include any capital investment that does not meet the provisions of subsection ~~(e)(1)(A)~~ (e)(1.3)(A) of this Code section if such investment was a capital investment in the hands of a prior holder.”

“(6) 'Eligible business' means a business that, at the time of the initial qualified investment in the company, has less than 250 employees and its principal business operations are located in one or more rural areas or qualified areas in this state, provided that such business:

~~(A) Has less than 250 employees; and~~

~~(B)(i) Has its principal business operations in one or more rural areas in this state; and~~

- 43 ~~(ii)~~(A) Produces or provides any goods or services produced in Georgia normally used  
 44 by farmers, ranchers, or producers and harvesters of aquatic products in their business  
 45 operations, or to improve the welfare or livelihood of such persons; ~~or is~~  
 46 (B) Is involved in the processing and marketing of agricultural products, farm supplies,  
 47 and input suppliers; or is  
 48 (C) Is engaged in agribusiness as defined by the United States Department of  
 49 Agriculture; or is  
 50 (D) Is engaged in manufacturing, health care, technology, transportation, or related  
 51 services; or  
 52 (E) Is determined by the department to be an if not engaged in such industries, the  
 53 department determines that such investment that will be beneficial to the rural area and  
 54 the economic growth of the state.

55 Any business which is classified as an eligible business at the time of the initial  
 56 investment in said business by a rural fund shall remain classified as an eligible business  
 57 and may receive follow-on investments from any rural fund, and such follow-on  
 58 investments shall be qualified investments even though such business may not meet the  
 59 definition of an eligible business at the time of such follow-on investments."

60 **SECTION 1-2.**

61 Said Code section is further amended by revising subsections (e) and (k), and by adding a  
 62 new subsection (l) to read as follows:

63 "(e)(1) A rural fund that seeks to have an equity investment certified as a capital  
 64 investment and eligible for credits under this Code section shall apply to the department.  
 65 (1.1) For the first round of funding provided for in paragraph (6) of this subsection, the  
 66 The department shall begin accepting applications within 90 days of July 1, 2017, and  
 67 shall cease accepting applications on June 30, 2021.

68 (1.2) For a second round of funding provided for in paragraph (6.1) of this subsection,  
69 the department shall begin accepting applications on August 1, 2021, and shall cease  
70 accepting applications after such second round of funding is exhausted.

71 (1.3) The rural fund shall include the following in its application:

- 72 (A) The amount of capital investment requested;
- 73 (B) A copy of the applicant's or an affiliate of the applicant's license as a rural business  
74 investment company under 7 U.S.C. Section 2009cc or as a small business investment  
75 company under 15 U.S.C. Section 681 and a certificate executed by an executive officer  
76 of the applicant attesting that such license remains in effect and has not been revoked;
- 77 (C) Evidence that, as of the date the application is submitted, the applicant or affiliates  
78 of the applicant have invested at least \$100 million in nonpublic companies located in  
79 rural areas within the United States;
- 80 (D) An estimate of the number of jobs that will be created or retained in this state as  
81 a result of the applicant's qualified investments;
- 82 (E) A business plan that includes a revenue impact assessment projecting state and  
83 local tax revenue to be generated by the applicant's proposed qualified investments  
84 prepared by a nationally recognized, third-party, independent economic forecasting firm  
85 using a dynamic economic forecasting model that analyzes the applicant's business plan  
86 over the ten years following the date the application is submitted to the department; and
- 87 (F) A nonrefundable application fee of \$5,000.00 for the round of funding provided for  
88 in paragraph (6) of this subsection and \$25,000.00 for the round of funding provided  
89 for in paragraph (6.1) of this subsection payable to the department.

90 (2) Within 30 days after receipt of a completed application, the department shall grant  
91 or deny the application in full or in part. The department shall deny the application if:

- 92 (A) The applicant does not satisfy all of the criteria described in paragraph ~~(1)~~ (1.3)  
93 of this subsection;

94 (B) The revenue impact assessment submitted with the application does not  
95 demonstrate that the applicant's business plan will result in a positive economic impact  
96 on this state over a ten-year period that exceeds the cumulative amount of tax credits  
97 that would be issued to the applicant if the application were approved; or

98 (C) The department has already approved the maximum amount of capital investment  
99 authority under paragraph (6) or paragraph (6.1) of this subsection, whichever  
100 paragraph is applicable.

101 If the department denies any part of the application, it shall inform the applicant of the  
102 grounds for the denial. If the applicant provides any additional information required by  
103 the department or otherwise completes its application within 15 days of the notice of  
104 denial, the application shall be considered completed as of the original date of  
105 submission. If the applicant fails to provide the information or fails to complete its  
106 application within the 15 day period, the application remains denied and must be  
107 resubmitted in full with a new submission date.

108 (3) If the application is complete, the department shall certify the proposed equity  
109 investment as a capital investment that is eligible for credits under this Code section,  
110 subject to the limitations contained in paragraph (6) or paragraph (6.1) of this subsection,  
111 whichever paragraph is applicable. The department shall provide written notice of the  
112 certification to the rural fund.

113 (4) The department shall certify capital investments in the order that the applications  
114 were received by the department. Applications received on the same day shall be deemed  
115 to have been received simultaneously.

116 (5) For applications that are complete and received on the same day, the department  
117 shall certify applications in proportionate percentages based upon the ratio of the amount  
118 of capital investments requested in an application to the total amount of capital  
119 investments requested in all applications.

120 (6) For a first round of funding, the The department shall certify \$100 million in capital  
121 investments pursuant to this Code section until the earlier of the date that such funds are  
122 exhausted, or June 30, 2021.

123 (6.1) For a second round of funding, beginning on August 1, 2021, the department shall  
124 certify \$100 million in capital investments pursuant to this Code section until such funds  
125 are exhausted.

126 (7) Within 60 days of the applicant receiving notice of certification, the rural fund shall  
127 issue the capital investment to and receive cash in the amount of the certified amount  
128 from a rural investor. At least 50 percent of the rural investor's capital investment shall  
129 be composed of capital raised by the rural investor from sources, including directors,  
130 members, employees, officers, and affiliates of the rural investor, other than the amount  
131 of capital invested by the allocatee claiming the tax credits in exchange for such  
132 allocation of tax credits. The rural fund shall provide the department with evidence of  
133 the receipt of the cash investment within 65 days of the applicant receiving notice of  
134 certification. If the rural fund does not receive the cash investment and issue the capital  
135 investment within such time period following receipt of the certification notice, the  
136 certification shall lapse and the rural fund shall not issue the capital investment without  
137 reapplying to the department for certification. Lapsed certifications revert to the  
138 authority and shall be reissued pro rata to applicants whose capital investment allocations  
139 were reduced pursuant to paragraph (5) of this subsection and then in accordance with the  
140 application process."

141 "(k)(1) Rural funds shall submit a report to the department within ~~the first~~ 15 business  
142 days after ~~the second anniversary of the initial credit allowance date~~ each capital  
143 investment that provides documentation of: ~~as to the investment of 100 percent of the~~  
144 ~~purchase price of such capital investment in qualified investments. Such report shall~~  
145 ~~include:~~

146 (A) The location of each eligible business receiving a qualified investment;

- 147 (B) Bank statements of such rural fund evidencing each qualified investment;
- 148 (C) A copy of the written opinion of the department set forth in subsection (j) of this  
149 Code section or evidence that such business was an eligible business at the time of such  
150 qualified investment, as applicable;
- 151 (D) The number of employment positions created and retained as a result of qualified  
152 investments;
- 153 (E) The average annual salary of positions described in subparagraph (D) of this  
154 paragraph; and
- 155 (F) Such other information required by the department.
- 156 (2) Thereafter, rural funds shall submit an annual report to the department within 45  
157 days of the beginning of the calendar year during the compliance period. The report shall  
158 include but is not limited to the following:
- 159 (A) The number of employment positions created and retained as a result of qualified  
160 investments; ~~and~~
- 161 (B) The average annual salary of positions described in subparagraph (A) of this  
162 paragraph; and
- 163 (C) The rural fund's total eligible capital investments as a percentage of its total capital  
164 investments.
- 165 (l) With respect to the second round of funding provided for in paragraph (6.1) of  
166 subsection (e) of this Code section, each rural fund shall pay an annual maintenance fee  
167 of \$7,500.00 to the department, beginning one year after the date of the initial credit  
168 allowance and annually thereafter for five years."

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**PART II**  
**SECTION 2-1.**

171 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
172 amended by adding a new Code section to read as follows:

173 "48-7-40.1B.

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

175 (1) 'Establishment' means an economic unit at a single physical location where business  
176 is conducted or where services or industrial operations are performed.

177 (2) 'Medical equipment and supplies manufacturer' means any business which is engaged  
178 in the manufacturing of medical equipment and supplies in this state. Such term shall be  
179 limited to establishments classified under the North American Industry Classification  
180 System (NAICS) Industry Code 3391 - Medical Equipment and Supplies Manufacturing.  
181 Such term shall not include retail businesses that sell medical equipment or supplies.

182 (3) 'Pharmaceutical and medicine manufacturer' means any business which is engaged  
183 in the manufacturing of pharmaceuticals or medicine in this state. Such term shall be  
184 limited to establishments classified under the North American Industry Classification  
185 System (NAICS) Industry Code 3254 - Pharmaceutical and Medicine Manufacturing.  
186 Such term shall not include retail businesses that sell pharmaceuticals or medicine.

187 (b)(1) When any medical equipment and supplies manufacturer or pharmaceutical and  
188 medicine manufacturer is qualified to claim a job tax credit under Code Section 48-7-40  
189 or 48-7-40.1, there shall be allowed an additional \$1,250.00 job tax credit against the tax  
190 imposed under this article for those qualifying jobs to the extent that they are engaged in  
191 the qualifying activities of manufacturing medical equipment or supplies or  
192 manufacturing pharmaceuticals or medicine in this state during the taxable year. Such  
193 medical equipment and supplies manufacturer or pharmaceutical and medicine  
194 manufacturer shall be eligible for such additional job tax credit at an individual



195 establishment of the business. If more than one business activity is conducted at an  
196 establishment, then only the jobs engaged in the qualifying activities of manufacturing  
197 medical equipment or supplies or manufacturing pharmaceuticals or medicine in this state  
198 shall be eligible for such additional job tax credit.

199 (2) The additional tax credit provided for in paragraph (1) of this subsection shall be  
200 claimed separately from the job tax credit under Code Section 48-7-40 or 48-7-40.1 but  
201 shall, except as provided in this Code section, be allowed subject to the conditions and  
202 limitations set forth in Code Section 48-7-40 or 48-7-40.1 and shall be in addition to the  
203 credit allowed under Code Section 48-7-40 or 48-7-40.1; provided, however, the amount  
204 allowed to offset taxes imposed by this article shall be 100 percent; and provided, further,  
205 that when such tax credit exceeds a business enterprise's liability for taxes imposed by  
206 this article in a taxable year, the excess may be taken as a credit against such business  
207 enterprise's quarterly or monthly payment under Code Section 48-7-103 in the same  
208 manner as provided under Code Section 48-7-40 or 48-7-40.1 but not subject to the dollar  
209 limitations provided therein. Additionally, such tax credit shall be disallowed during any  
210 year in which a business enterprise does not qualify as a medical equipment and supplies  
211 manufacturer or as a pharmaceutical and medicine manufacturer.

212 (3) The additional tax credit provided for in paragraph (1) of this subsection may be used  
213 in conjunction with the tax credit provided for under Code Section 48-7-40.15.

214 (c) The additional tax credit provided for under paragraph (1) of subsection (b) of this  
215 Code section shall be subject to the following conditions and limitations:

216 (1) Any tax credit claimed under subsection (b) of this Code section but not used in any  
217 taxable year, may be carried forward for ten years from the close of the taxable year in  
218 which the qualified jobs were established; and

219 (2) No taxpayer shall be eligible for the tax credit provided for under subsection (b) of  
220 this Code section for any job for which the taxpayer claims the tax credit provided for  
221 under Code Section 48-7-40.1A.

222 (d) This Code Section shall be effective as of January 1, 2021 and shall be applicable to  
223 taxable years beginning on or after January 1, 2021."

224 **SECTION 2-2.**

225 Said title is further amended in Code Section 48-7-40.1A, relating to job tax credit for PPE  
226 manufacturers, by adding a new paragraph in subsection (c) to read as follows:

227 "(3) No taxpayer shall be eligible for the tax credit provided for under subsection (b) of  
228 this Code section for any job for which the taxpayer claims the tax credit provided for  
229 under Code Section 48-7-40.1B."

230 **SECTION 2-3.**

231 Said title is further amended by revising paragraphs (2) and (3) of subsection (e) of Code  
232 Section 48-7-40.15, relating to alternative tax credits for base year port traffic increases, and  
233 conditions and limitations, as follows:

234 (2)(A) Any tax credit claimed under subsection (b) of this Code section but not used  
235 in any taxable year may be carried forward for ten years from the close of the taxable  
236 year in which the qualified jobs were established, provided that the increase in port  
237 traffic remains above the minimum levels established in Code Section 48-7-40 or  
238 48-7-40.1 and this Code section, respectively. For any tax credit earned pursuant to  
239 subsection (b) of this Code section on or after July 1, 2021, when such tax credit  
240 exceeds a business enterprise's liability for taxes imposed by this article in a taxable  
241 year, the excess may be taken as a credit against such business enterprise's quarterly or  
242 monthly payment under Code Section 48-7-103 in the same manner as provided under  
243 Code Section 48-7-40 or 48-7-40.1 but not subject to the dollar limitations provided  
244 therein.

245 (B) Any tax credit claimed under subsection (c) of this Code section in lieu of Code  
246 Section 48-7-40.2, 48-7-40.3, or 48-7-40.4 but not used in any taxable year may be  
247 carried forward for ten years from the close of the taxable year in which the qualified  
248 investment property was acquired, provided that the increase in port traffic remains  
249 above the minimum level established in this Code section and the qualified investment  
250 property remains in service.

251 (3)(A) Any tax credit claimed under subsection (c) of this Code section in lieu of Code  
252 Section 48-7-40.7, 48-7-40.8, or 48-7-40.9 shall be allowed for the ensuing ten taxable  
253 years following the taxable year the qualified investment property was first placed in  
254 service, provided that the increase in port traffic remains above the minimum level  
255 established in this Code section and the qualified investment property remains in  
256 service.

257 (B) The tax credit established by this Code section in lieu of Code Section 48-7-40.2,  
258 48-7-40.3, or 48-7-40.4 and taken in any one taxable year shall be limited to an amount  
259 not greater than 50 percent of the taxpayer's state income tax liability which is  
260 attributable to income derived from operations in this state for that taxable year;  
261 provided, however, that for such tax credits earned on or after July 1, 2021, the amount  
262 allowed to offset taxes imposed by this article shall be 100 percent; and provided,  
263 further, that when such tax credit exceeds a business enterprise's liability for taxes  
264 imposed by this article in a taxable year, the excess may be taken as a credit against  
265 such business enterprise's quarterly or monthly payment under Code Section 48-7-103  
266 in the same manner as provided under Code Section 48-7-40 or 48-7-40.1 but not  
267 subject to the dollar limitations provided therein.

268 (C) The tax credit established by this Code section in addition to that pursuant to Code  
269 Section 48-7-40 or 48-7-40.1 and taken in any one taxable year shall be limited to an  
270 amount not greater than 50 percent of the taxpayer's state income tax liability which is  
271 attributable to income derived from operations in this state for that taxable year;

272 provided, however, that for such tax credits earned on or after July 1, 2021, the amount  
 273 allowed to offset taxes imposed by this article shall be 100 percent; and provided,  
 274 further, that when such tax credit exceeds a business enterprise's liability for taxes  
 275 imposed by this article in a taxable year, the excess may be taken as a credit against  
 276 such business enterprise's quarterly or monthly payment under Code Section 48-7-103  
 277 in the same manner as provided under Code Section 48-7-40 or 48-7-40.1 but not  
 278 subject to the dollar limitations provided therein.

279 (D) The sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new  
 280 eligibility for any succeeding taxpayer, but any unused credit may be transferred and  
 281 continued by any transferee of the taxpayer."

282 **SECTION 2-4.**

283 Said title is further amended by revising subsections (g) and (i) of Code Section 48-7-40.24  
 284 of the Official Code of Georgia Annotated, relating to conditions for taking job tax credit by  
 285 business enterprises and calculating credit, as follows:

286 "(g) To qualify for the credit provided by this Code section, a new full-time job must be  
 287 created by the close of the seventh taxable year following the business enterprise's  
 288 withholding start date, unless the purchase or acquisition of qualified investment property  
 289 is made as provided in paragraph (5) of subsection (a) of this Code section, in which case  
 290 a new full-time job must be created by the close of the eighth taxable year following the  
 291 business enterprise's withholding start date based on a \$600 million qualified investment  
 292 or the end of the tenth taxable year based on an \$800 million qualified investment. ~~In no~~  
 293 ~~event may a credit be claimed under this Code section for more than 4,500 new full-time~~  
 294 ~~employee jobs created by any one project, provided, however, that the taxpayer may claim~~  
 295 ~~the credits provided by Code Sections 48-7-40 and 48-7-40.1 for any such additional jobs~~  
 296 ~~if the taxpayer meets the terms and conditions thereof."~~

297 "(i)(1) Except as provided in subsection (g) of this Code section and paragraph (2) of this  
298 subsection, a taxpayer who is entitled to and takes credits provided by this Code section  
299 for a qualified project shall not be allowed to take any of the credits authorized by Code  
300 Section 48-7-40, 48-7-40.1, 48-7-40.2, 48-7-40.3, 48-7-40.4, 48-7-40.6, 48-7-40.7,  
301 48-7-40.8, 48-7-40.9, 48-7-40.10, ~~48-7-40.11~~, 48-7-40.15, 48-7-40.17, or 48-7-40.18 for  
302 jobs, investments, child care, or ground-water usage shifts created by, arising from,  
303 related to, or connected in any way with the same project. Provided such taxpayer  
304 otherwise qualifies, such taxpayer may take any credit authorized by Code Section  
305 48-7-40.5 for the costs of retraining an employee located at the site or sites of such  
306 project or the facility or facilities resulting therefrom, but only for costs incurred more  
307 than five years after the date the facility or facilities first become operational.  
308 (2) On and after July 1, 2021, a taxpayer who is entitled to and takes credits authorized  
309 by this Code section for a high-impact aerospace defense project as such term is defined  
310 in Code Section 48-7-40.25 may also take the credits authorized by Code Section  
311 48-7-40.17 for such project; provided, however, that the taxpayer may not take the credits  
312 authorized by this Code section and 48-7-40.17 with respect to such project in the same  
313 taxable year."

314 **SECTION 2-5.**

315 Said title is further amended by revising Code Section 48-7-40.25, relating to conditions for  
316 credit for business enterprises with existing manufacturing facilities and calculating credit,  
317 as follows:

318 "48-7-40.25.

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

320 (1) 'Business enterprise' means any business or the headquarters of any such business  
321 which is engaged in manufacturing. Such term shall not include retail businesses.

322 (2) 'Force majeure' means any:

- 323 (A) Explosions, implosions, fire, conflagrations, accidents, or contamination;  
 324 (B) Unusual and unforeseeable weather conditions such as floods, torrential rain, hail,  
 325 tornadoes, hurricanes, lightning, or other natural calamities or acts of God;  
 326 (C) Acts of war (whether or not declared), carnage, blockade, or embargo;  
 327 (D) Acts of public enemy, acts or threats of terrorism or threats from terrorists, riot,  
 328 public disorder, or violent demonstrations;  
 329 (E) Strikes or other labor disturbances; or  
 330 (F) Expropriation, requisition, confiscation, impoundment, seizure, nationalization, or  
 331 compulsory acquisition of the site of a qualified project or any part thereof;  
 332 but such term shall not include any event or circumstance that could have been prevented,  
 333 overcome, or remedied in whole or in part by the taxpayer through the exercise of  
 334 reasonable diligence and due care, nor shall such term include the unavailability of funds.
- 335 (3) 'Full-time employee' means an individual holding a full-time employee job.
- 336 (4) 'Full-time employee job' and 'full-time job' mean employment of an individual which:
- 337 (A)(i) With respect to a qualified project, is ~~Is~~ located in this state at the  
 338 manufacturing facility resulting from such a qualified project; and
- 339 (ii) With respect to a high-impact aerospace defense project certified pursuant to  
 340 paragraph (2) of subsection (b) on or after July 1, 2021, is located in this state and  
 341 results from such project.
- 342 (B) Involves a regular work week of 35 hours or more;
- 343 (C) Has no predetermined end date; and
- 344 (D) Pays at or above the average wage of the county with the lowest average wage in  
 345 the state, as reported in the most recently available annual issue of the Georgia  
 346 Employment and Wages Averages Report of the Department of Labor.
- 347 For purposes of this paragraph, leased employees will be considered employees of the  
 348 company using their services, and such persons may be counted in determining the  
 349 company's credits under this Code section if their employment otherwise meets the

350 definition of full-time job contained herein. In addition, an individual's employment shall  
351 not be deemed to have a predetermined end date solely by virtue of a mandatory  
352 retirement age set forth in a company policy of general application. The employment of  
353 any individual in a bona fide executive, administrative, or professional capacity, within  
354 the meaning of Section 13 of the federal Fair Labor Standards Act of 1938, as amended,  
355 29 U.S.C. Section 213(a)(1), as such act existed on January 1, 2002, shall not be deemed  
356 to have a predetermined end date solely by virtue of the fact that such employment is  
357 pursuant to a fixed-term contract, provided that such contract is for a term of not less than  
358 one year.

359 (4.1) 'High-impact aerospace defense project' means a qualified project with the  
360 additional limitations that it is:

361 (A) To be constructed by a business enterprise that is a prime aerospace defense  
362 contractor with greater than 40 percent of its revenues derived from sales to the United  
363 States government in its most recently completed tax year; and

364 (B) Certified by the commissioner of economic development as materially supportive  
365 of the mission of the Georgia Joint Defense Commission and the Governor's Defense  
366 Initiative. In making such a certification, the commissioner shall consider whether the  
367 project will support the goals of the Georgia Joint Defense Commission set forth in  
368 subsections (2), (3), and (4) of Code Section 20-4-121.

369 (5) 'Investment requirement' means the requirement that:

370 (A) With respect to a qualified project, a minimum of \$800 million in qualified  
371 investment property shall have been purchased or acquired for use in such a qualified  
372 project and be in service; or

373 (B) With respect to a high-impact aerospace defense project certified pursuant to  
374 paragraph (2) of subsection (b) on or after July 1, 2021, a minimum of \$500 million in  
375 qualified investment property shall have been purchased or acquired for use in such  
376 project and be in service.

377 (6) 'Job maintenance requirement' means the requirement that the monthly average  
378 number of full-time employees employed by the business enterprise during the first 60  
379 months of the recapture period must equal or exceed 90 percent of the job requirement.

380 (7) 'Job requirement' means the requirement that:

381 (A) With respect to a qualified project, the number of full-time employees must equal  
382 or exceed 1,800; or

383 (B) With respect to a high-impact aerospace defense project certified pursuant to  
384 paragraph (2) of subsection (b) on or after July 1, 2021, the number of full-time  
385 employees must equal or exceed 1,000.

386 (8) 'Qualified investment property' means all real and personal property purchased or  
387 acquired by a taxpayer for use in a qualified project, including, but not limited to,  
388 amounts expended on land acquisition, improvements, buildings, building improvements,  
389 and machinery and equipment to be used in the manufacturing facility.

390 (9) 'Qualified project' means the construction of a new manufacturing facility in this  
391 state. For purposes of this paragraph, the term 'manufacturing facility' means a single  
392 facility, including contiguous parcels of land, improvements to such land, buildings,  
393 building improvements, and any machinery or equipment that is used in the process of  
394 making, fabricating, constructing, forming, or assembling a product from components or  
395 from raw, unfinished, or semifinished materials, and any support facility. For purposes  
396 of this paragraph, the term 'support facility' means any warehouses, distribution centers,  
397 storage facilities, research and development facilities, laboratories, repair and  
398 maintenance facilities, corporate offices, sales or marketing offices, computer operations  
399 facilities, or administrative offices that are contiguous to the manufacturing facility that  
400 results from a qualified project, constructed or expanded as part of the same such project,  
401 and designed primarily for activities supporting the manufacturing operations at such  
402 manufacturing facility.



403 (10) 'Recapture period' means the period of ten consecutive taxable years that  
404 commences after the taxable year in which the taxpayer has met both the investment  
405 requirement and the job requirement.

406 (b) A business enterprise that has operated an existing manufacturing facility in this state  
407 for the immediately three preceding years and that is planning a qualified project shall be  
408 allowed to take the credit provided by this Code section under the following conditions:

409 (1) An application is filed with the commissioner that:

410 (A) Describes the qualified project to be undertaken by the business enterprise,  
411 including when such project will commence;

412 (B) Certifies that such project will meet the investment requirement and the job  
413 requirement prescribed by this Code section, stating when the business enterprise  
414 expects to meet such requirements; and

415 (C) With respect to a high-impact aerospace defense project, certifies that the taxpayer  
416 will purchase or acquire a minimum of \$800 million in qualified investment property  
417 and will employ at least 1,800 full-time employees, stating when the business enterprise  
418 expects to meet such requirements; and

419 ~~(C)~~(D) Certifies that during the recapture period applicable to such project the business  
420 enterprise will meet the job maintenance requirement prescribed by this Code section;  
421 and

422 (2) Following the commissioner's referral of the application to a panel composed of the  
423 commissioner of community affairs, the commissioner of economic development, and the  
424 director of the Office of Planning and Budget, said panel, after reviewing the application,  
425 certifies that the new facility will have a significant beneficial economic effect on the  
426 region for which it is planned. The panel shall make its determination within 30 days  
427 after receipt from the commissioner of the taxpayer's application and any necessary  
428 supporting documentation. Although the panel's certification may be based upon other  
429 criteria, a project that meets the minimum job and investment requirements specified in

430 paragraph (1) of this subsection will have a significant beneficial economic effect on the  
431 region for which it is planned if one of the following additional criteria is met:

432 (A) The full-time employee jobs ~~that will be located at the manufacturing facility~~  
433 resulting from such project will pay average wages that are, as determined by the  
434 Georgia Department of Labor for all jobs, for the county in question:

435 (i) Twenty percent above such average wage for projects located in tier 1 counties;  
436 (ii) Ten percent above such average wage for projects located in tier 2 counties; or  
437 (iii) Five percent above such average wage for projects located in tier 3 or tier 4  
438 counties; or

439 (B) The project demonstrates high growth potential based upon the prior year's Georgia  
440 net taxable income growth of over 20 percent from the previous year, if the taxpayer's  
441 Georgia net taxable income in each of the two preceding years also grew by 20 percent  
442 or more.

443 (c) Any lease for a period of five years or longer of any real or personal property used in  
444 a new manufacturing facility which would otherwise constitute qualified investment  
445 property shall be treated as the purchase or acquisition thereof by the lessee. The taxpayer  
446 may treat the full value of the leased property as qualified investment property in the year  
447 in which the lease becomes binding on the lessor and the taxpayer.

448 (d) A business enterprise whose application is approved shall be allowed a credit against  
449 the tax imposed under this article in an amount equal to 6 percent of the cost of all qualified  
450 investment property purchased or acquired by the business enterprise in such year, subject  
451 to the conditions and limitations set forth in this Code section. Where the amount of such  
452 credit exceeds a business enterprise's liability for such taxes in a taxable year, the excess  
453 may be taken as a credit against such business enterprise's quarterly or monthly payment  
454 under Code Section 48-7-103. The taxpayer may file an election with the commissioner  
455 to take such credit against quarterly or monthly payments under Code Section 48-7-103  
456 that become due before the due date of the income tax return on which such credit may be

457 claimed. In the event of such an election, the commissioner shall confirm with the taxpayer  
458 a date, which shall not be later than 30 days after receipt of the taxpayer's election, when  
459 the taxpayer may begin to take the credit against such quarterly or monthly payments.  
460 Each employee whose employer receives credit against such business enterprise's quarterly  
461 or monthly payment under Code Section 48-7-103 shall receive credit against his or her  
462 income tax liability under Code Section 48-7-20 for the corresponding taxable year for the  
463 full amount which would be credited against such liability prior to the application of the  
464 credit provided for in this subsection. Credits against quarterly or monthly payments under  
465 Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established  
466 by this subsection shall not constitute income to the taxpayer.

467 (e) The credit granted under subsection (d) of this Code section shall be subject to the  
468 following conditions and limitations:

469 (1) In order to qualify as a basis for the credit, the investment in qualified investment  
470 property must occur no sooner than ~~April 1, 2003~~ the date of application by the taxpayer  
471 for the qualified project pursuant to paragraph (1) of subsection (b) of this Code section.

472 The credit may be taken beginning with the taxable year in which the taxpayer has met  
473 both the investment requirement and the job requirement, and for such first year the credit  
474 may include qualified investment property purchased or acquired in prior years but after  
475 ~~March 31, 2003~~ the date of application by the taxpayer for the qualified project pursuant  
476 to paragraph (1) of subsection (b) of this Code section. For each year in which a taxpayer  
477 claims the credit, the taxpayer shall attach a schedule to the taxpayer's Georgia income  
478 tax return which will set forth the following information, as a minimum:

- 479 (A) A description of the qualified project;  
480 (B) The amount of qualified investment property acquired during the taxable year;  
481 (C) The amount of tax credit claimed for the taxable year;  
482 (D) The amount of qualified investment property acquired in prior taxable years;

483 (E) Any tax credit previously taken by the taxpayer against Georgia income tax  
484 liabilities or the taxpayer's quarterly or monthly payments under Code Section  
485 48-7-103;

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

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

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

489 (I) The monthly average number of full-time jobs during the taxable year;

490 (2) Any credit claimed under this Code section but not fully used in the manner  
491 prescribed in subsection (d) of this Code section may be carried forward for 15 years  
492 from the close of the later of:

493 (A) The taxable year in which the qualified investment property was acquired; or

494 (B) The taxable year in which both the job requirement and investment requirement are  
495 satisfied.

496 The sale, merger, acquisition, or bankruptcy of any business enterprise shall not create  
497 new eligibility in any succeeding business entity but any unused investment tax credit  
498 may be transferred and continued by any transferee of the business enterprise;

499 (3) In the initial year in which the taxpayer claims the credit granted in subsection (d) of  
500 this Code section, the taxpayer shall include in the description of the project required by  
501 subparagraph (A) of paragraph (1) of this subsection information which demonstrates that  
502 ~~the taxpayer has met both the investment requirement and project includes the acquisition~~  
503 ~~of qualified investment property having an aggregate cost equal to or exceeding \$800~~  
504 ~~million and that the job requirement was satisfied~~ during such year; and

505 (4) The utilization of the credit granted in subsection (d) of this Code section shall have  
506 no effect on the taxpayer's ability to claim depreciation for tax purposes on the assets  
507 acquired by the taxpayer, nor shall the credit have any effect on the taxpayer's basis in  
508 such assets for the purpose of depreciation.

509 (f)(1) Except as provided in paragraph (2) of this subsection, in ~~in~~ no event may credits  
510 exceeding \$50 million in the aggregate be claimed under this Code section with respect  
511 to any one project.

512 (2) In no event shall a taxpayer claim credits exceeding \$100 million in the aggregate  
513 under this Code section with respect to a high-impact aerospace defense project.

514 (g)(1) Except as provided in paragraph (2) of this subsection, a ~~A~~ taxpayer who is  
515 entitled to and takes credits provided by this Code section with respect to a qualified  
516 project shall not be allowed to take any of the credits authorized by Code Section  
517 48-7-40, 48-7-40.1, 48-7-40.2, 48-7-40.3, 48-7-40.4, 48-7-40.6, 48-7-40.7, 48-7-40.8,  
518 48-7-40.9, 48-7-40.10, ~~48-7-40.11~~, 48-7-40.15, 48-7-40.17, 48-7-40.18, or 48-7-40.24  
519 with respect to jobs, investments, child care, or ground-water usage shifts created by,  
520 arising from, related to, or connected in any way with the same project. Such taxpayer  
521 may take any credit authorized by Code Section 48-7-40.5 for the cost of retraining an  
522 employee located at the site of such project or the manufacturing facility resulting  
523 therefrom, but only with respect to costs incurred more than five years after the date the  
524 manufacturing facility first becomes operational.

525 (2) A taxpayer who is entitled to and takes credits authorized by this Code section for a  
526 high-impact aerospace defense project certified pursuant to paragraph (2) of subsection  
527 (b) on or after July 1, 2021, may also take the credits authorized by Code Sections  
528 48-7-40.17 and 48-7-40.24 for such project.

529 (h) Not more than 60 days after the close of the fifth taxable year within the recapture  
530 period, the taxpayer shall file a report, using such form and providing such information as  
531 the commissioner may reasonably require, concerning whether it met the job maintenance  
532 requirement. If the taxpayer has failed to meet the job maintenance requirement, the  
533 taxpayer will forfeit the right to all credits provided by this Code section for such project.  
534 A taxpayer that forfeits such right is liable for all past taxes imposed by this article and all  
535 past payments under Code Section 48-7-103 that were forgone by the state as a result of

536 the credits provided by this Code section, plus interest at the rate established by Code  
537 Section 48-2-40 computed from the date such taxes or payments would have been due if  
538 the credits had not been taken. No later than 90 days after notification by the commissioner  
539 that the taxpayer has failed to meet the job maintenance requirement, the taxpayer shall file  
540 amended income tax and withholding tax returns for all affected periods that recalculate  
541 those liabilities without regard to the forfeited credits and shall pay any additional amounts  
542 shown on such returns, with interest as provided herein.

543 (i) A taxpayer who fails to meet the job maintenance requirement because of force majeure  
544 may petition the commissioner for relief from such requirement. Such a petition must be  
545 made with and at the same time as the report required by subsection (h) of this Code  
546 section. If the commissioner determines that force majeure materially affected the  
547 taxpayer's ability to meet the job maintenance requirement, but that the portion of any year  
548 so affected was six months or less, the commissioner shall calculate the taxpayer's monthly  
549 average number of full-time employees for purposes of subsection (h) of this Code section  
550 by disregarding the affected months. If the commissioner determines that the affected  
551 portion of any such year was more than six months, the taxable year shall be disregarded  
552 in its entirety for purposes of the job maintenance requirement and the recapture period  
553 applicable to the qualified project shall be extended for an additional year.

554 (j) If the manufacturing facility resulting from a qualified project is abandoned at any time  
555 during the recapture period, the taxpayer will forfeit the right to all credits provided by this  
556 Code section for such project. A taxpayer that forfeits such right is liable for all past taxes  
557 imposed by this article and all past payments under Code Section 48-7-103 that were  
558 forgone by the state as a result of the credits provided by this Code section, plus interest  
559 at the rate established by Code Section 48-2-40 computed from the date such taxes or  
560 payments would have been due if the credits had not been taken. For purposes of this  
561 subsection, a manufacturing facility will be considered abandoned if there is, for any reason  
562 other than force majeure, a complete cessation of manufacturing operations for a period of

563 12 consecutive months or more during the recapture period. Not more than 60 days after  
564 the close of the recapture period, the taxpayer shall file a report, using such form and  
565 providing such information as the commissioner may require, concerning whether such an  
566 abandonment occurred. No later than 90 days after notification by the commissioner that  
567 an abandonment occurred, the taxpayer shall file amended income tax and withholding tax  
568 returns for all affected periods that recalculate those liabilities without regard to the  
569 forfeited credits and shall pay any additional amounts shown on such returns, with interest  
570 as provided herein.

571 (k) Unless more time is allowed therefor by Code Section 48-7-82 or 48-2-49, the  
572 commissioner may make any assessment attributable to the forfeiture of credits claimed  
573 under this Code section for the periods covered by any amended returns filed by a taxpayer  
574 pursuant to subsections (h) and (j) of this Code section within one year from the date such  
575 returns are filed. If the taxpayer fails to file the reports or any amended return required by  
576 subsections (h) and (j) of this Code section, the commissioner may assess additional tax or  
577 other amounts attributable to the forfeiture of credits claimed under this Code section at  
578 any time.

579 (l) The commissioner shall promulgate any rules and regulations necessary to implement  
580 and administer this Code section."

581 **SECTION 2-6.**

582 Said title is further amended by revising subsections (c) through (h) of Code Section  
583 48-7-40.34 of the Official Code of Georgia Annotated, relating to tax credit for Class III  
584 railroads and reporting, as follows:

585 "(c)(1) The credit given under this Code section shall only be allowed once for each mile  
586 of railroad track in each taxable year.

587 (2) Such credit shall be given for each taxable year beginning on or after  
588 January 1, 2019, and ending on or before December 30, ~~2023~~ 2028, in which the  
589 conditions of this Code section have been met.

590 (d) If a credit is given under this Code section with respect to any railroad track, the basis  
591 of such railroad track shall be reduced by the amount of the credit so allowed.

592 (e) The tax credits given to a Class III railroad by this Code section that are not used by  
593 such Class III railroad shall be freely assignable one time between January 1, 2019, and  
594 January 1, ~~2024~~ 2029, by written agreement to a taxpayer subject to the tax imposed by this  
595 chapter.

596 (f) On or before September 1 of 2020 and annually thereafter until ~~2024~~ 2029, the  
597 commissioner shall issue a report to the chairpersons of the Senate Finance Committee and  
598 the House Committee on Ways and Means concerning the tax credit created by this Code  
599 section, which shall include the following statistics for the preceding taxable year:

600 (1) The total number of taxpayers that claimed a credit provided by this Code section;  
601 and

602 (2) The number and total value of all credits earned and all credits applied during such  
603 tax year pursuant to this Code section.

604 (g) The commissioner shall promulgate such forms, rules, and regulations as are necessary  
605 to implement and administer the provisions of this Code section.

606 (h) This Code section shall be automatically repealed on January 1, ~~2024~~ 2029."

607 **PART III**

608 **SECTION 3-1.**

609 This Act shall become effective on July 1, 2021.



610

**SECTION 3-2.**

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