

House Bill 587

By: Representatives Williamson of the 115th, Reeves of the 34th, Blackmon of the 146th, Jasperse of the 11th, Frye of the 118th, and others

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to provide for a tax credit for medical equipment and supplies manufacturers
3 and pharmaceutical and medicine manufacturers; to provide for definitions; to provide for
4 conditions and limitations on certain tax credits; to provide for tax credits for high-impact
5 aerospace defense projects; to permit tax credits for port traffic increases to be applied
6 against payroll withholding; to revise a job tax credit; to allow such tax credit to be taken in
7 conjunction with certain other tax credits; to revise a manufacturing tax credit; to change jobs
8 limit and revise the requirements for such tax credit for certain projects; to change the
9 aggregate credit cap for certain projects; to amend Code Section 33-1-25 of the Official Code
10 of Georgia Annotated, relating to the "Georgia Agribusiness and Rural Jobs Act," so as to
11 provide for a second round of funding and period for applications; to increase an application
12 fee and provide for an annual maintenance fee; change certain reporting requirements; to
13 revise and provide for definitions; to amend Code Section 48-7-40.34 of the Official Code
14 of Georgia Annotated, relating to tax credit for Class III railroads and reporting, so as to
15 extend an income tax credit for expenditures on the maintenance of railroad track owned or
16 leased by Class III railroads; to provide for a short title; to provide for related matters; to
17 provide for an effective date; to repeal conflicting laws; and for other purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 **PART I**

20 **SECTION 1-1.**

21 This Act shall be known and may be cited as the "Georgia Economic Renewal Act of 2021."

22 **PART II**

23 **SECTION 2-1.**

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

26 "48-7-40.1B.

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

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

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

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

40 (b)(1) When any medical equipment and supplies manufacturer or pharmaceutical and
41 medicine manufacturer is qualified to claim a job tax credit under Code Section 48-7-40
42 or 48-7-40.1, there shall be allowed an additional \$1,250.00 job tax credit against the tax
43 imposed under this article for those qualifying jobs to the extent that they are engaged in
44 the qualifying activities of manufacturing medical equipment or supplies or
45 manufacturing pharmaceuticals or medicine in this state during the taxable year. Such
46 medical equipment and supplies manufacturer or pharmaceutical and medicine
47 manufacturer shall be eligible for such additional job tax credit at an individual
48 establishment of the business. If more than one business activity is conducted at an
49 establishment, then only the jobs engaged in the qualifying activities of manufacturing
50 medical equipment or supplies or manufacturing pharmaceuticals or medicine in this state
51 shall be eligible for such additional job tax credit.

52 (2) The additional tax credit provided for in paragraph (1) of this subsection shall be
53 claimed separately from the job tax credit under Code Section 48-7-40 or 48-7-40.1 but
54 shall, except as provided in this Code section, be allowed subject to the conditions and
55 limitations set forth in Code Section 48-7-40 or 48-7-40.1 and shall be in addition to the
56 credit allowed under Code Section 48-7-40 or 48-7-40.1; provided, however, the amount
57 allowed to offset taxes imposed by this article shall be 100 percent; and provided, further,
58 that when such tax credit exceeds a business enterprise's liability for taxes imposed by
59 this article in a taxable year, the excess may be taken as a credit against such business
60 enterprise's quarterly or monthly payment under Code Section 48-7-103 in the same
61 manner as provided under Code Section 48-7-40 or 48-7-40.1 but not subject to the dollar
62 limitations provided therein. Additionally, such tax credit shall be disallowed during any
63 year in which a business enterprise does not qualify as a medical equipment and supplies
64 manufacturer or as a pharmaceutical and medicine manufacturer.

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

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

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

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

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

77 SECTION 2-2.

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

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

83 SECTION 2-3.

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

87 (2)(A) Any tax credit claimed under subsection (b) of this Code section but not used
88 in any taxable year may be carried forward for ten years from the close of the taxable
89 year in which the qualified jobs were established, provided that the increase in port
90 traffic remains above the minimum levels established in Code Section 48-7-40 or
91 48-7-40.1 and this Code section, respectively. For any tax credit earned pursuant to

92 subsection (b) of this Code section on or after July 1, 2021, when such tax credit
93 exceeds a business enterprise's liability for taxes imposed by this article in a taxable
94 year, the excess may be taken as a credit against such business enterprise's quarterly or
95 monthly payment under Code Section 48-7-103 in the same manner as provided under
96 Code Section 48-7-40 or 48-7-40.1 but not subject to the dollar limitations provided
97 therein.

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

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

110 (B) The tax credit established by this Code section in lieu of Code Section 48-7-40.2,
111 48-7-40.3, or 48-7-40.4 and taken in any one taxable year shall be limited to an amount
112 not greater than 50 percent of the taxpayer's state income tax liability which is
113 attributable to income derived from operations in this state for that taxable year;
114 provided, however, that for such tax credits earned on or after July 1, 2021, the amount
115 allowed to offset taxes imposed by this article shall be 100 percent; and provided,
116 further, that when such tax credit exceeds a business enterprise's liability for taxes
117 imposed by this article in a taxable year, the excess may be taken as a credit against
118 such business enterprise's quarterly or monthly payment under Code Section 48-7-103

in the same manner as provided under Code Section 48-7-40 or 48-7-40.1 but not subject to the dollar limitations provided therein.

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

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

SECTION 2-4.

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

"(g) To qualify for the credit provided by this Code section, a new full-time job must be created by the close of the seventh taxable year following the business enterprise's withholding start date, unless the purchase or acquisition of qualified investment property is made as provided in paragraph (5) of subsection (a) of this Code section, in which case a new full-time job must be created by the close of the eighth taxable year following the business enterprise's withholding start date based on a \$600 million qualified investment

145 or the end of the tenth taxable year based on an \$800 million qualified investment. ~~In no~~
146 event may a credit be claimed under this Code section for more than 4,500 new full-time
147 employee jobs created by any one project; provided, however, that the taxpayer may claim
148 the credits provided by Code Sections 48-7-40 and 48-7-40.1 for any such additional jobs
149 if the taxpayer meets the terms and conditions thereof."

150 "(i)~~(1)~~ Except as provided in subsection (g) of this Code section and paragraph (2) of this
151 subsection, a taxpayer who is entitled to and takes credits provided by this Code section
152 for a qualified project shall not be allowed to take any of the credits authorized by Code
153 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,
154 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
155 jobs, investments, child care, or ground-water usage shifts created by, arising from,
156 related to, or connected in any way with the same project. Provided such taxpayer
157 otherwise qualifies, such taxpayer may take any credit authorized by Code Section
158 48-7-40.5 for the costs of retraining an employee located at the site or sites of such
159 project or the facility or facilities resulting therefrom, but only for costs incurred more
160 than five years after the date the facility or facilities first become operational.

161 (2) On and after July 1, 2021, a taxpayer who is entitled to and takes credits authorized
162 by this Code section for a high-impact aerospace defense project as such term is defined
163 in Code Section 48-7-40.25 may also take the credits authorized by Code Section
164 48-7-40.17 for such project; provided, however, that the taxpayer may not take the credits
165 authorized by this Code section and 48-7-40.17 with respect to such project in the same
166 taxable year."

167 SECTION 2-5.

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

171 "48-7-40.25.

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

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

175 (2) 'Force majeure' means any:

176 (A) Explosions, implosions, fire, conflagrations, accidents, or contamination;
177 (B) Unusual and unforeseeable weather conditions such as floods, torrential rain, hail,
178 tornadoes, hurricanes, lightning, or other natural calamities or acts of God;
179 (C) Acts of war (whether or not declared), carnage, blockade, or embargo;
180 (D) Acts of public enemy, acts or threats of terrorism or threats from terrorists, riot,
181 public disorder, or violent demonstrations;
182 (E) Strikes or other labor disturbances; or
183 (F) Expropriation, requisition, confiscation, impoundment, seizure, nationalization, or
184 compulsory acquisition of the site of a qualified project or any part thereof;

185 but such term shall not include any event or circumstance that could have been prevented,
186 overcome, or remedied in whole or in part by the taxpayer through the exercise of
187 reasonable diligence and due care, nor shall such term include the unavailability of funds.

188 (3) 'Full-time employee' means an individual holding a full-time employee job.

189 (4) 'Full-time employee job' and 'full-time job' mean employment of an individual which:

190 (A)(i) With respect to a qualified project, is Is located in this state at the
191 manufacturing facility resulting from such a qualified project; and

192 (ii) With respect to a high-impact aerospace defense project certified pursuant to
193 paragraph (2) of subsection (b) on or after July 1, 2021, is located in this state and
194 results from such project.

195 (B) Involves a regular work week of 35 hours or more;

196 (C) Has no predetermined end date; and

197 (D) Pays at or above the average wage of the county with the lowest average wage in
198 the state, as reported in the most recently available annual issue of the Georgia
199 Employment and Wages Averages Report of the Department of Labor.

200 For purposes of this paragraph, leased employees will be considered employees of the
201 company using their services, and such persons may be counted in determining the
202 company's credits under this Code section if their employment otherwise meets the
203 definition of full-time job contained herein. In addition, an individual's employment shall
204 not be deemed to have a predetermined end date solely by virtue of a mandatory
205 retirement age set forth in a company policy of general application. The employment of
206 any individual in a bona fide executive, administrative, or professional capacity, within
207 the meaning of Section 13 of the federal Fair Labor Standards Act of 1938, as amended,
208 29 U.S.C. Section 213(a)(1), as such act existed on January 1, 2002, shall not be deemed
209 to have a predetermined end date solely by virtue of the fact that such employment is
210 pursuant to a fixed-term contract, provided that such contract is for a term of not less than
211 one year.

212 (4.1) 'High-impact aerospace defense project' means a qualified project with the
213 additional limitations that it is:

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

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

222 (5) 'Investment requirement' means the requirement that;

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

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

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

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

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

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

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

243 (9) 'Qualified project' means the construction of a new manufacturing facility in this
244 state. For purposes of this paragraph, the term 'manufacturing facility' means a single
245 facility, including contiguous parcels of land, improvements to such land, buildings,
246 building improvements, and any machinery or equipment that is used in the process of
247 making, fabricating, constructing, forming, or assembling a product from components or
248 from raw, unfinished, or semifinished materials, and any support facility. For purposes
249 of this paragraph, the term 'support facility' means any warehouses, distribution centers,

250 storage facilities, research and development facilities, laboratories, repair and
251 maintenance facilities, corporate offices, sales or marketing offices, computer operations
252 facilities, or administrative offices that are contiguous to the manufacturing facility that
253 results from a qualified project, constructed or expanded as part of the same such project,
254 and designed primarily for activities supporting the manufacturing operations at such
255 manufacturing facility.

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

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

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

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

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

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

272 (E)(D) Certifies that during the recapture period applicable to such project the business
273 enterprise will meet the job maintenance requirement prescribed by this Code section;
274 and

275 (2) Following the commissioner's referral of the application to a panel composed of the
276 commissioner of community affairs, the commissioner of economic development, and the

277 director of the Office of Planning and Budget, said panel, after reviewing the application,
278 certifies that the new facility will have a significant beneficial economic effect on the
279 region for which it is planned. The panel shall make its determination within 30 days
280 after receipt from the commissioner of the taxpayer's application and any necessary
281 supporting documentation. Although the panel's certification may be based upon other
282 criteria, a project that meets the minimum job and investment requirements specified in
283 paragraph (1) of this subsection will have a significant beneficial economic effect on the
284 region for which it is planned if one of the following additional criteria is met:

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

288 (i) Twenty percent above such average wage for projects located in tier 1 counties;
289 (ii) Ten percent above such average wage for projects located in tier 2 counties; or
290 (iii) Five percent above such average wage for projects located in tier 3 or tier 4
291 counties; or

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

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

301 (d) A business enterprise whose application is approved shall be allowed a credit against
302 the tax imposed under this article in an amount equal to 6 percent of the cost of all qualified
303 investment property purchased or acquired by the business enterprise in such year, subject

304 to the conditions and limitations set forth in this Code section. Where the amount of such
305 credit exceeds a business enterprise's liability for such taxes in a taxable year, the excess
306 may be taken as a credit against such business enterprise's quarterly or monthly payment
307 under Code Section 48-7-103. The taxpayer may file an election with the commissioner
308 to take such credit against quarterly or monthly payments under Code Section 48-7-103
309 that become due before the due date of the income tax return on which such credit may be
310 claimed. In the event of such an election, the commissioner shall confirm with the taxpayer
311 a date, which shall not be later than 30 days after receipt of the taxpayer's election, when
312 the taxpayer may begin to take the credit against such quarterly or monthly payments.
313 Each employee whose employer receives credit against such business enterprise's quarterly
314 or monthly payment under Code Section 48-7-103 shall receive credit against his or her
315 income tax liability under Code Section 48-7-20 for the corresponding taxable year for the
316 full amount which would be credited against such liability prior to the application of the
317 credit provided for in this subsection. Credits against quarterly or monthly payments under
318 Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established
319 by this subsection shall not constitute income to the taxpayer.

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

322 (1) In order to qualify as a basis for the credit, the investment in qualified investment
323 property must occur no sooner than ~~April 1, 2003~~ the date of application by the taxpayer
324 for the qualified project pursuant to paragraph (1) of subsection (b) of this Code section.
325 The credit may be taken beginning with the taxable year in which the taxpayer has met
326 both the investment requirement and the job requirement, and for such first year the credit
327 may include qualified investment property purchased or acquired in prior years but after
328 ~~March 31, 2003~~ the date of application by the taxpayer for the qualified project pursuant
329 to paragraph (1) of subsection (b) of this Code section. For each year in which a taxpayer

330 claims the credit, the taxpayer shall attach a schedule to the taxpayer's Georgia income
331 tax return which will set forth the following information, as a minimum:

332 (A) A description of the qualified project;
333 (B) The amount of qualified investment property acquired during the taxable year;
334 (C) The amount of tax credit claimed for the taxable year;
335 (D) The amount of qualified investment property acquired in prior taxable years;
336 (E) Any tax credit previously taken by the taxpayer against Georgia income tax
337 liabilities or the taxpayer's quarterly or monthly payments under Code Section
338 48-7-103;
339 (F) The amount of tax credit carried over from prior years;
340 (G) The amount of tax credit utilized by the taxpayer in the current taxable year;
341 (H) The amount of tax credit to be carried over to subsequent tax years; and
342 (I) The monthly average number of full-time jobs during the taxable year;
343 (2) Any credit claimed under this Code section but not fully used in the manner
344 prescribed in subsection (d) of this Code section may be carried forward for 15 years
345 from the close of the later of:
346 (A) The taxable year in which the qualified investment property was acquired; or
347 (B) The taxable year in which both the job requirement and investment requirement are
348 satisfied.

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

352 (3) In the initial year in which the taxpayer claims the credit granted in subsection (d) of
353 this Code section, the taxpayer shall include in the description of the project required by
354 subparagraph (A) of paragraph (1) of this subsection information which demonstrates that
355 the taxpayer has met both the investment requirement and project includes the acquisition

356 ~~of qualified investment property having an aggregate cost equal to or exceeding \$800~~
357 ~~million and that the job requirement was satisfied during such year; and~~

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

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

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

367 (g)(1) Except as provided in paragraph (2) of this subsection, a ~~A~~ taxpayer who is
368 entitled to and takes credits provided by this Code section with respect to a qualified
369 project shall not be allowed to take any of the credits authorized by Code Section
370 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,
371 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
372 with respect to jobs, investments, child care, or ground-water usage shifts created by,
373 arising from, related to, or connected in any way with the same project. Such taxpayer
374 may take any credit authorized by Code Section 48-7-40.5 for the cost of retraining an
375 employee located at the site of such project or the manufacturing facility resulting
376 therefrom, but only with respect to costs incurred more than five years after the date the
377 manufacturing facility first becomes operational.

378 (2) A taxpayer who is entitled to and takes credits authorized by this Code section for a
379 high-impact aerospace defense project certified pursuant to paragraph (2) of subsection
380 (b) on or after July 1, 2021, may also take the credits authorized by Code Sections
381 48-7-40.17 and 48-7-40.24 for such project.

382 (h) Not more than 60 days after the close of the fifth taxable year within the recapture
383 period, the taxpayer shall file a report, using such form and providing such information as
384 the commissioner may reasonably require, concerning whether it met the job maintenance
385 requirement. If the taxpayer has failed to meet the job maintenance requirement, the
386 taxpayer will forfeit the right to all credits provided by this Code section for such project.
387 A taxpayer that forfeits such right is liable for all past taxes imposed by this article and all
388 past payments under Code Section 48-7-103 that were forgone by the state as a result of
389 the credits provided by this Code section, plus interest at the rate established by Code
390 Section 48-2-40 computed from the date such taxes or payments would have been due if
391 the credits had not been taken. No later than 90 days after notification by the commissioner
392 that the taxpayer has failed to meet the job maintenance requirement, the taxpayer shall file
393 amended income tax and withholding tax returns for all affected periods that recalculate
394 those liabilities without regard to the forfeited credits and shall pay any additional amounts
395 shown on such returns, with interest as provided herein.

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

407 (j) If the manufacturing facility resulting from a qualified project is abandoned at any time
408 during the recapture period, the taxpayer will forfeit the right to all credits provided by this

409 Code section for such project. A taxpayer that forfeits such right is liable for all past taxes
410 imposed by this article and all past payments under Code Section 48-7-103 that were
411 forgone by the state as a result of the credits provided by this Code section, plus interest
412 at the rate established by Code Section 48-2-40 computed from the date such taxes or
413 payments would have been due if the credits had not been taken. For purposes of this
414 subsection, a manufacturing facility will be considered abandoned if there is, for any reason
415 other than force majeure, a complete cessation of manufacturing operations for a period of
416 12 consecutive months or more during the recapture period. Not more than 60 days after
417 the close of the recapture period, the taxpayer shall file a report, using such form and
418 providing such information as the commissioner may require, concerning whether such an
419 abandonment occurred. No later than 90 days after notification by the commissioner that
420 an abandonment occurred, the taxpayer shall file amended income tax and withholding tax
421 returns for all affected periods that recalculate those liabilities without regard to the
422 forfeited credits and shall pay any additional amounts shown on such returns, with interest
423 as provided herein.

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

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

434

PART III

435

SECTION 3-1.

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

439 "(1) '2021 allocation' means the second round of funding provided for in paragraph (6.1)
440 of subsection (e) of this Code section."

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

443 (A) Is acquired after July 1, 2017, at its original issuance solely in exchange for cash;
444 (B) Has 100 percent of its cash purchase price used by the rural fund to make qualified
445 investments in eligible businesses located in this state by the second anniversary of the
446 initial credit allowance date; and

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

452 "(6) 'Eligible business' means a business that, at the time of the initial qualified
453 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
454 that such business:

456 (A) ~~Has less than 250 employees, and~~

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

459 (iii)(A) Produces or provides any goods or services produced in Georgia normally used
460 by farmers, ranchers, or producers and harvester of aquatic products in their business
461 operations, or to improve the welfare or livelihood of such persons; or is
462 (B) Is involved in the processing and marketing of agricultural products, farm supplies,
463 and input suppliers; or is
464 (C) Is engaged in agribusiness as defined by the United States Department of
465 Agriculture; or is
466 (D) Is engaged in manufacturing, health care, technology, transportation, or related
467 services; or
468 (E) Is determined by the department to be an if not engaged in such industries, the
469 department determines that such investment that will be beneficial to the rural area and
470 the economic growth of the state.

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

SECTION 3-2.

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

479 "(e)(1) A rural fund that seeks to have an equity investment certified as a capital
480 investment and eligible for credits under this Code section shall apply to the department.
481 (1.1) For the first round of funding provided for in paragraph (6) of this subsection, the
482 The department shall begin accepting applications within 90 days of July 1, 2017, and
483 shall cease accepting applications on June 30, 2021.

484 (1.2) For a second round of funding provided for in paragraph (6.1) of this subsection,
485 the department shall begin accepting applications on August 1, 2021, and shall cease
486 accepting applications after such second round of funding is exhausted.

487 (1.3) The rural fund shall include the following in its application:

- 488 (A) The amount of capital investment requested;
- 489 (B) A copy of the applicant's or an affiliate of the applicant's license as a rural business
490 investment company under 7 U.S.C. Section 2009cc or as a small business investment
491 company under 15 U.S.C. Section 681 and a certificate executed by an executive officer
492 of the applicant attesting that such license remains in effect and has not been revoked;
- 493 (C) Evidence that, as of the date the application is submitted, the applicant or affiliates
494 of the applicant have invested at least \$100 million in nonpublic companies located in
495 rural areas within the United States;
- 496 (D) An estimate of the number of jobs that will be created or retained in this state as
497 a result of the applicant's qualified investments;
- 498 (E) A business plan that includes a revenue impact assessment projecting state and
499 local tax revenue to be generated by the applicant's proposed qualified investments
500 prepared by a nationally recognized, third-party, independent economic forecasting firm
501 using a dynamic economic forecasting model that analyzes the applicant's business plan
502 over the ten years following the date the application is submitted to the department; and
- 503 (F) A nonrefundable application fee of \$5,000.00 for the round of funding provided
504 in paragraph (6) of this subsection and \$25,000.00 for the round of funding provided
505 for in paragraph (6.1) of this subsection payable to the department.

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

- 508 (A) The applicant does not satisfy all of the criteria described in paragraph (1.3)
509 of this subsection;

510 (B) The revenue impact assessment submitted with the application does not
511 demonstrate that the applicant's business plan will result in a positive economic impact
512 on this state over a ten-year period that exceeds the cumulative amount of tax credits
513 that would be issued to the applicant if the application were approved; or
514 (C) The department has already approved the maximum amount of capital investment
515 authority under paragraph (6) or paragraph (6.1) of this subsection, whichever
516 paragraph is applicable.

517 If the department denies any part of the application, it shall inform the applicant of the
518 grounds for the denial. If the applicant provides any additional information required by
519 the department or otherwise completes its application within 15 days of the notice of
520 denial, the application shall be considered completed as of the original date of
521 submission. If the applicant fails to provide the information or fails to complete its
522 application within the 15 day period, the application remains denied and must be
523 resubmitted in full with a new submission date.

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

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

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

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

539 (6.1) For a second round of funding, beginning on August 1, 2021, the department shall
540 certify \$100 million in capital investments pursuant to this Code section until such funds
541 are exhausted.

542 (7) Within 60 days of the applicant receiving notice of certification, the rural fund shall
543 issue the capital investment to and receive cash in the amount of the certified amount
544 from a rural investor. At least 50 percent of the rural investor's capital investment shall
545 be composed of capital raised by the rural investor from sources, including directors,
546 members, employees, officers, and affiliates of the rural investor, other than the amount
547 of capital invested by the allocatee claiming the tax credits in exchange for such
548 allocation of tax credits. The rural fund shall provide the department with evidence of
549 the receipt of the cash investment within 65 days of the applicant receiving notice of
550 certification. If the rural fund does not receive the cash investment and issue the capital
551 investment within such time period following receipt of the certification notice, the
552 certification shall lapse and the rural fund shall not issue the capital investment without
553 reapplying to the department for certification. Lapsed certifications revert to the
554 authority and shall be reissued pro rata to applicants whose capital investment allocations
555 were reduced pursuant to paragraph (5) of this subsection and then in accordance with the
556 application process."

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

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

563 (B) Bank statements of such rural fund evidencing each qualified investment;

564 (C) A copy of the written opinion of the department set forth in subsection (j) of this

565 Code section or evidence that such business was an eligible business at the time of such

566 qualified investment, as applicable;

567 (D) The number of employment positions created and retained as a result of qualified

568 investments;

569 (E) The average annual salary of positions described in subparagraph (D) of this

570 paragraph; and

571 (F) Such other information required by the department.

572 (2) Thereafter, rural funds shall submit an annual report to the department within 45

573 days of the beginning of the calendar year during the compliance period. The report shall

574 include but is not limited to the following:

575 (A) The number of employment positions created and retained as a result of qualified

576 investments; and

577 (B) The average annual salary of positions described in subparagraph (A) of this

578 paragraph; and

579 (C) The rural fund's total eligible capital investments as a percentage of its total capital

580 investments.

581 (I) With respect to the second round of funding provided for in paragraph (6.1) of

582 subsection (e) of this Code section, each rural fund shall pay an annual maintenance fee

583 of \$7,500.00 to the department, beginning one year after the date of the initial credit

584 allowance and annually thereafter for five years."

585

PART IV

586

SECTION 4-1.

587 Code Section 48-7-40.34 of the Official Code of Georgia Annotated, relating to tax credit for
588 Class III railroads and reporting, is amended by revising subsections (c) through (h) as
589 follows:

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

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

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

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

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

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

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

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

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

612 **PART V**

613 **SECTION 5-1.**

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

615 **SECTION 5-2.**

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