

House Bill 587 (RULES COMMITTEE SUBSTITUTE)

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.

H. B. 587 (SUB)

- 1 -

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

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

PART II

SECTION 2-1.

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

"48-7-40.1B.

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

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

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

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

(b)(1) When any medical equipment and supplies manufacturer or pharmaceutical and medicine manufacturer is qualified to claim a job tax credit pursuant to Code Section 48-7-40 or 48-7-40.1, for a qualifying job created on or after July 1, 2021, there shall be allowed an additional \$1,250.00 per job tax credit against the tax imposed under this article for those qualifying jobs to the extent that they are engaged in the qualifying activities of manufacturing medical equipment or supplies or manufacturing pharmaceuticals or medicine in this state during the taxable year. Such medical equipment and supplies manufacturer or pharmaceutical and medicine manufacturer shall be eligible for such additional per job tax credit at an individual establishment of the business. If more than one business activity is conducted at an establishment, then only the jobs engaged in the qualifying activities of manufacturing medical equipment or supplies or manufacturing pharmaceuticals or medicine in this state shall be eligible for such additional per job tax credit.

(2) The additional tax credit provided for in paragraph (1) of this subsection shall be claimed separately from the job tax credit under Code Section 48-7-40 or 48-7-40.1 but shall, except as provided in this Code section, be allowed subject to the conditions and limitations set forth in Code Section 48-7-40 or 48-7-40.1 and shall be in addition to the credit allowed under Code Section 48-7-40 or 48-7-40.1; provided, however, 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. Additionally, such tax credit shall be disallowed during any year in which a business enterprise does not qualify as a medical equipment and supplies manufacturer or as a pharmaceutical and medicine manufacturer.

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

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

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

(2) No taxpayer shall be eligible for the tax credit provided for under subsection (b) of this Code section for any job for which the taxpayer claims the tax credit provided for under Code Section 48-7-40.1A, or for any job claimed pursuant to Code Section 48-7-40 or 48-7-40.1 prior to July 1, 2021.

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

SECTION 2-2.

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

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

SECTION 2-3.

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

(2)(A) Any tax credit claimed under subsection (b) of this Code section but not used in any taxable year may be carried forward for ten years from the close of the taxable

91 year in which the qualified jobs were established, provided that the increase in port
92 traffic remains above the minimum levels established in Code Section 48-7-40 or
93 48-7-40.1 and this Code section, respectively. For any tax credit earned pursuant to
94 subsection (b) of this Code section in a taxable year beginning on or after January 1,
95 2021, when such tax credit exceeds a business enterprise's liability for taxes imposed
96 by this article in a taxable year, the excess may be taken as a credit against such
97 business enterprise's quarterly or monthly payment under Code Section 48-7-103 in the
98 same manner as provided under Code Section 48-7-40 or 48-7-40.1 but not subject to
99 the dollar limitations provided therein.

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

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

112 (B) The tax credit established by this Code section in lieu of Code Section 48-7-40.2,
113 48-7-40.3, or 48-7-40.4 and taken in any one taxable year shall be limited to an amount
114 not greater than 50 percent of the taxpayer's state income tax liability which is
115 attributable to income derived from operations in this state for that taxable year;
116 provided, however, that for such tax credits earned in a taxable year beginning on or
117 after January 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.

(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 in a taxable year beginning on or after January 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

144 is made as provided in paragraph (5) of subsection (a) of this Code section, in which case
145 a new full-time job must be created by the close of the eighth taxable year following the
146 business enterprise's withholding start date based on a \$600 million qualified investment
147 or the end of the tenth taxable year based on an \$800 million qualified investment. ~~In no~~
148 ~~event may a credit be claimed under this Code section for more than 4,500 new full-time~~
149 ~~employee jobs created by any one project, provided, however, that the taxpayer may claim~~
150 ~~the credits provided by Code Sections 48-7-40 and 48-7-40.1 for any such additional jobs~~
151 ~~if the taxpayer meets the terms and conditions thereof."~~

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

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

SECTION 2-5.

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

"48-7-40.25.

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

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

(2) 'Force majeure' means any:

(A) Explosions, implosions, fire, conflagrations, accidents, or contamination;

(B) Unusual and unforeseeable weather conditions such as floods, torrential rain, hail, tornadoes, hurricanes, lightning, or other natural calamities or acts of God;

(C) Acts of war (whether or not declared), carnage, blockade, or embargo;

(D) Acts of public enemy, acts or threats of terrorism or threats from terrorists, riot, public disorder, or violent demonstrations;

(E) Strikes or other labor disturbances; or

(F) Expropriation, requisition, confiscation, impoundment, seizure, nationalization, or compulsory acquisition of the site of a qualified project or any part thereof;

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

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

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

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

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

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

(C) Has no predetermined end date; and

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

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

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

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

(B) Certified by the commissioner of economic development as materially supportive of the mission of the Georgia Joint Defense Commission and the Governor's Defense

Initiative. In making such a certification, the commissioner shall consider whether the project will support the goals of the Georgia Joint Defense Commission set forth in subsections (2), (3), and (4) of Code Section 20-4-121.

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

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

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

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

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

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

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

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

(9) 'Qualified project' means the construction of a new manufacturing facility in this state. For purposes of this paragraph, the term 'manufacturing facility' means a single facility, including contiguous parcels of land, improvements to such land, buildings,

building improvements, and any machinery or equipment that is used in the process of making, fabricating, constructing, forming, or assembling a product from components or from raw, unfinished, or semifinished materials, and any support facility. For purposes of this paragraph, the term 'support facility' means any warehouses, distribution centers, storage facilities, research and development facilities, laboratories, repair and maintenance facilities, corporate offices, sales or marketing offices, computer operations facilities, or administrative offices that are contiguous to the manufacturing facility that results from a qualified project, constructed or expanded as part of the same such project, and designed primarily for activities supporting the manufacturing operations at such manufacturing facility.

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

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

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

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

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

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

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

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

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

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

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

(c) Any lease for a period of five years or longer of any real or personal property used in a new manufacturing facility which would otherwise constitute qualified investment property shall be treated as the purchase or acquisition thereof by the lessee. The taxpayer

may treat the full value of the leased property as qualified investment property in the year in which the lease becomes binding on the lessor and the taxpayer.

(d) A business enterprise whose application is approved shall be allowed a credit against the tax imposed under this article in an amount equal to 6 percent of the cost of all qualified investment property purchased or acquired by the business enterprise in such year, subject to the conditions and limitations set forth in this Code section. Where the amount of such credit exceeds a business enterprise's liability for such taxes 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. The taxpayer may file an election with the commissioner to take such credit against quarterly or monthly payments under Code Section 48-7-103 that become due before the due date of the income tax return on which such credit may be claimed. In the event of such an election, the commissioner shall confirm with the taxpayer a date, which shall not be later than 30 days after receipt of the taxpayer's election, when the taxpayer may begin to take the credit against such quarterly or monthly payments. Each employee whose employer receives credit against such business enterprise's quarterly or monthly payment under Code Section 48-7-103 shall receive credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount which would be credited against such liability prior to the application of the credit provided for in this subsection. Credits against quarterly or monthly payments under Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established by this subsection shall not constitute income to the taxpayer.

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

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

The credit may be taken beginning with the taxable year in which the taxpayer has met

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

(A) A description of the qualified project;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g)(1) Except as provided in paragraph (2) of this subsection, a ~~A~~ taxpayer who is entitled to and takes credits provided by this Code section with respect to a qualified project shall not be allowed to take any of the credits authorized by Code 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, 48-7-40.8, 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 with respect to jobs, investments, child care, or ground-water usage shifts created by, arising from, related to, or connected in any way with the same project. Such taxpayer may take any credit authorized by Code Section 48-7-40.5 for the cost of retraining an employee located at the site of such project or the manufacturing facility resulting therefrom, but only with respect to costs incurred more than five years after the date the manufacturing facility first becomes operational.

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

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

(i) A taxpayer who fails to meet the job maintenance requirement because of force majeure may petition the commissioner for relief from such requirement. Such a petition must be made with and at the same time as the report required by subsection (h) of this Code section. If the commissioner determines that force majeure materially affected the taxpayer's ability to meet the job maintenance requirement, but that the portion of any year so affected was six months or less, the commissioner shall calculate the taxpayer's monthly average number of full-time employees for purposes of subsection (h) of this Code section by disregarding the affected months. If the commissioner determines that the affected portion of any such year was more than six months, the taxable year shall be disregarded

in its entirety for purposes of the job maintenance requirement and the recapture period applicable to the qualified project shall be extended for an additional year.

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

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

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

436 **PART III**

437 **SECTION 3-1.**

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

441 "(1) '2021 allocation' means the second round of funding provided for in paragraph (6.1)
442 of subsection (e) of this Code section."

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

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

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

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

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

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

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

~~(ii)(A) Produces or provides any goods or services produced in Georgia normally used by farmers, ranchers, or producers and harvesters of aquatic products in their business operations, or to improve the welfare or livelihood of such persons;~~ ~~or is~~

~~(B) Is involved in the processing and marketing of agricultural products, farm supplies, and input suppliers;~~ ~~or is~~

~~(C) Is engaged in agribusiness as defined by the United States Department of Agriculture;~~ ~~or is~~

~~(D) Is engaged in manufacturing, health care, technology, transportation, or related services;~~ ~~or~~

~~(E) Is determined by the department to be an if not engaged in such industries, the department determines that such investment that will be beneficial to the rural area and the economic growth of the state.~~

Any If a business which is classified as an eligible business at the time of the initial investment in said business by a rural fund grows to 250 employees or more, it shall remain classified as an eligible business and may receive follow-on investments from any rural fund, and such follow-on investments shall be qualified investments, provided that such business otherwise meets the definition of an eligible business."

SECTION 3-2.

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

"(e)(1) A rural fund that seeks to have an equity investment certified as a capital investment and eligible for credits under this Code section shall apply to the department.

482 (1.1) For the first round of funding provided for in paragraph (6) of this subsection, the
483 The department shall begin accepting applications within 90 days of July 1, 2017, and
484 shall cease accepting applications on June 30, 2021.

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

488 (1.3) The rural fund shall include the following in its application:

489 (A) The amount of capital investment requested;

490 (B) A copy of the applicant's or an affiliate of the applicant's license as a rural business
491 investment company under 7 U.S.C. Section 2009cc or as a small business investment
492 company under 15 U.S.C. Section 681 and a certificate executed by an executive officer
493 of the applicant attesting that such license remains in effect and has not been revoked;
494 (C) Evidence that, as of the date the application is submitted, the applicant or affiliates
495 of the applicant have invested at least \$100 million in nonpublic companies located in
496 rural areas within the United States;

497 (D) An estimate of the number of jobs that will be created or retained in this state as
498 a result of the applicant's qualified investments;

499 (E) A business plan that includes a revenue impact assessment projecting state and
500 local tax revenue to be generated by the applicant's proposed qualified investments
501 prepared by a nationally recognized, third-party, independent economic forecasting firm
502 using a dynamic economic forecasting model that analyzes the applicant's business plan
503 over the ten years following the date the application is submitted to the department; and

504 (F) A nonrefundable application fee of \$5,000.00 for the round of funding provided for
505 in paragraph (6) of this subsection and \$25,000.00 for the round of funding provided
506 for in paragraph (6.1) of this subsection payable to the department.

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

(A) The applicant does not satisfy all of the criteria described in paragraph ~~(4)~~ (1.3) of this subsection;

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

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

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

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

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

(5) For applications that are complete and received on the same day, the department shall certify applications in proportionate percentages based upon the ratio of the amount

of capital investments requested in an application to the total amount of capital investments requested in all applications.

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

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

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

"(k)(1) Rural funds shall submit a report to the department within ~~the first 15 business days after the second anniversary of the initial credit allowance date~~ each qualified investment that provides documentation of: ~~as to the investment of 100 percent of the~~

~~purchase price of such capital investment in qualified investments. Such report shall include:~~

- (A) The location of each eligible business receiving a qualified investment;
- (B) Bank statements of such rural fund evidencing each qualified investment;
- (C) A copy of the written opinion of the department set forth in subsection (j) of this Code section or evidence that such business was an eligible business at the time of such qualified investment, as applicable;
- (D) The number of employment positions created and retained as a result of qualified investments;
- (E) The average annual salary of positions described in subparagraph (D) of this paragraph; and
- (F) Such other information required by the department.

(2) Thereafter, rural funds shall submit an annual report to the department within 45 days of the beginning of the calendar year during the compliance period. The report shall include but is not limited to the following:

- (A) The number of employment positions created and retained as a result of qualified investments; ~~and~~
- (B) The average annual salary of positions described in subparagraph (A) of this paragraph; and
- (C) The rural fund's total eligible capital investments as a percentage of its total capital investments.

(l) With respect to the second round of funding provided for in paragraph (6.1) of subsection (e) of this Code section, each rural fund shall pay an annual maintenance fee of \$7,500.00 to the department, beginning one year after the date of the initial credit allowance and annually thereafter for five years."

PART IV
SECTION 4-1.

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

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

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

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

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

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

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

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

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

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

613 **PART V**

614 **SECTION 5-1.**

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

616 **SECTION 5-2.**

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