

COMMITTEES OF CONFERENCE SUBSTITUTE TO SB 6

ADOPTED

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 28 of the Official Code of Georgia Annotated, relating to the General
2 Assembly, so as to provide for economic analyses to be conducted for certain tax benefits
3 upon request by the chairpersons of the House Committee on Ways and Means and the
4 Senate Finance Committee; to provide for limits; to provide for summaries to be attached to
5 related fiscal notes; to amend Title 48 of the Official Code of Georgia Annotated, relating
6 to revenue and taxation, so as to provide for a tax credit for medical equipment and supplies
7 manufacturers and pharmaceutical and medicine manufacturers; to provide for definitions;
8 to provide for conditions and limitations on certain tax credits; to provide for an effective
9 date and applicability; to change jobs limits and revise the requirements for such tax credit
10 for certain projects; to provide for tax credits for high-impact aerospace defense projects; to
11 revise a job tax credit; to allow such tax credit to be taken in conjunction with certain other
12 tax credits; to revise a manufacturing tax credit; to provide for reporting; to amend Code
13 Section 48-7-40.34 of the Official Code of Georgia Annotated, relating to tax credit for Class
14 III railroads and reporting, so as to extend an income tax credit for expenditures on the
15 maintenance of railroad track owned or leased by Class III railroads; to amend Title 48 of the
16 Official Code of Georgia Annotated, relating to revenue and taxation, so as to extend the
17 sunset date for the exemption for projects of regional significance; to exempt sales of tickets,
18 fees, or charges for admission to certain fine arts performances or exhibitions from sales and

19 use taxes; to provide for automatic repeal; to renew a sales tax exemption for maintenance
20 and replacement parts used in machinery or equipment that is used to mix, agitate, and
21 transport freshly mixed concrete; to extend the sunset provision for an exemption for sales
22 taxes on certain tangible personal property sold or used to maintain, refit, or repair a boat
23 during a single event; to revise certain tax credits for the rehabilitation of historic structures;
24 to revise the aggregate cap; to provide for definitions; to repeal Section 2 of Ga. L. 2015, p.
25 1340, approved May 12, 2015; to revise a limitation on business enterprises eligible for a tax
26 credit for research and development; to revise an exemption for the sale or lease of certain
27 computer equipment; to provide for clarification, with respect to a sales tax exemption for
28 certain computer equipment, that the exclusion for telephone central office equipment or
29 other voice data transport technology in subdivision (68)(C)(ii)(I) of Code Section 48-8-3,
30 which became effective October 1, 2002, includes any wireline or wireless
31 telecommunication system; to provide for reporting; to provide for an automatic repeal; to
32 provide for related matters; to provide for short titles; to provide for an effective date; to
33 repeal conflicting laws; and for other purposes.

34 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

35 **PART I**
36 **SECTION 1-1.**

37 Part I of this Act shall be known and may be cited as the "Tax Credit Return on Investment
38 Act of 2021." Parts II through IV of this Act shall be known and may be cited as the
39 "Georgia Economic Renewal Act of 2021." Part V of this Act shall be known and may be
40 cited as the "Georgia Economic Recovery Act of 2021."

SECTION 1-2.

41

42 Title 28 of the Official Code of Georgia Annotated, relating to the General Assembly, is
43 amended by adding a new Code section to read as follows:

44 "28-5-41.1.

45 (a) An economic analysis shall include, but not be limited to, a good faith estimate as a
46 result of the law or proposed law, on an annual basis for five years thereafter, of the
47 following, on both a direct and indirect basis:

48 (1) Net change in state revenue;

49 (2) Net change in state expenditures, which shall include, but not be limited to, costs of
50 administering the bill;

51 (3) Net change in economic activity; and

52 (4) If applicable, any net change in public benefit.

53 (b) On or before May 1 of each year, the chairperson of the House Committee on Ways
54 and Means and the chairperson of the Senate Finance Committee may each request up to
55 five economic analyses, which requests shall be transmitted to the Department of Audits
56 and Accounts. The Department of Audits and Accounts shall contract with one or more
57 independent auditors to complete all such analyses on or before December 1 of the year in
58 which such analysis was requested. Each such request shall be limited to one existing
59 provision of law or proposed law and shall specify one particular exemption, exclusion, or
60 deduction from the base of a tax; credit against a tax; deferral of a tax; a rebate of taxes
61 paid; tax abatement; or preferential tax rate to be analyzed.

62 (c) Copies of each completed economic analysis shall be provided to the House Budget
63 and Research Office and the Senate Budget and Evaluation Office.

64 (d) If a fiscal note is requested pursuant to Code Section 28-5-42 and a relevant economic
65 analysis has been conducted within one year of such request, the Office of Planning and
66 Budget may prepare a summary of such economic analysis and attach it with the requested
67 fiscal note.

68 (e) An economic analysis shall be conducted on the performance and outcomes of Code
69 Section 33-1-25, which shall be completed by December 1, 2021."

70 **PART II**

71 **SECTION 2-1.**

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

74 "48-7-40.1B.

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

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

78 (2) 'Medical equipment and supplies manufacturer' means any business which is engaged
79 in the manufacturing of medical equipment and supplies in this state. Such term shall be
80 limited to establishments classified under the North American Industry Classification
81 System (NAICS) Industry Code 3391 - Medical Equipment and Supplies Manufacturing.

82 Such term shall not include retail businesses that sell medical equipment or supplies.

83 (3) 'Pharmaceutical and medicine manufacturer' means any business which is engaged
84 in the manufacturing of pharmaceuticals or medicine in this state. Such term shall be
85 limited to establishments classified under the North American Industry Classification
86 System (NAICS) Industry Code 3254 - Pharmaceutical and Medicine Manufacturing.

87 Such term shall not include retail businesses that sell pharmaceuticals or medicine.

88 (b)(1) When any medical equipment and supplies manufacturer or pharmaceutical and
89 medicine manufacturer is qualified to claim a job tax credit pursuant to Code Section
90 48-7-40 or 48-7-40.1, for a qualifying job created on or after July 1, 2021, there shall be
91 allowed an additional \$1,250.00 per job tax credit against the tax imposed under this
92 article for those qualifying jobs to the extent that they are engaged in the qualifying

93 activities of manufacturing medical equipment or supplies or manufacturing
94 pharmaceuticals or medicine in this state during the taxable year. Such medical
95 equipment and supplies manufacturer or pharmaceutical and medicine manufacturer shall
96 be eligible for such additional per job tax credit at an individual establishment of the
97 business. If more than one business activity is conducted at an establishment, then only
98 the jobs engaged in the qualifying activities of manufacturing medical equipment or
99 supplies or manufacturing pharmaceuticals or medicine in this state shall be eligible for
100 such additional per job tax credit.

101 (2) The additional tax credit provided for in paragraph (1) of this subsection shall be
102 claimed separately from the job tax credit under Code Section 48-7-40 or 48-7-40.1 but
103 shall, except as provided in this Code section, be allowed subject to the conditions and
104 limitations set forth in Code Section 48-7-40 or 48-7-40.1 and shall be in addition to the
105 credit allowed under Code Section 48-7-40 or 48-7-40.1; provided, however, that the
106 amount allowed to offset taxes imposed by this article shall be 100 percent; and provided,
107 further, that when such tax credit exceeds a business enterprise's liability for taxes
108 imposed by this article in a taxable year, the excess may be taken as a credit against such
109 business enterprise's quarterly or monthly payment under Code Section 48-7-103 in the
110 same manner as provided under Code Section 48-7-40 or 48-7-40.1 but not subject to the
111 dollar limitations provided therein. Additionally, such tax credit shall be disallowed
112 during any year in which a business enterprise does not qualify as a medical equipment
113 and supplies manufacturer or as a pharmaceutical and medicine manufacturer.

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

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

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

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

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

127 **SECTION 2-2.**

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

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

133 **SECTION 2-3.**

134 Said title is further amended by revising subsections (g), (i), and (p) of Code Section
135 48-7-40.24, relating to conditions for taking job tax credit by business enterprises and
136 calculating credit, as follows:

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

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

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

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

165 "(p) Any taxpayer whose qualified project is certified on or after June 30, 2021, pursuant
166 to paragraph (2) of subsection (b) of this Code section that subsequently claims the tax
167 credit available under subsection (d) of this Code section in connection with the qualified
168 project shall report annually to a panel composed of the commissioner of community
169 affairs, the commissioner of economic development, and the director of the Office of

170 Planning and Budget, the total number of such taxpayer's full-time employees working at
171 the qualified project and the total amount of qualified investment property made into the
172 qualified project. Such reports shall be due by December 31 of each year. This annual
173 reporting requirement will extend through the end of the recapture period as defined in
174 paragraph (13) of subsection (a) of this Code section.

175 (q) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, such panel shall
176 compile the annual reports provided pursuant to paragraph (p) of this Code section, and
177 beginning June 30, 2026, and every two years thereafter, shall furnish a compiled report
178 to the chairperson of the House Committee on Ways and Means and the chairperson of the
179 Senate Finance Committee. Such compiled report shall aggregate the annual reports
180 supplied by taxpayers whose qualified projects are subject to the reporting requirement in
181 subsection (p) of this Code section.

182 (r) The commissioner shall promulgate any rules and regulations necessary to implement
183 and administer this Code section."

184 **SECTION 2-4.**

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

188 "48-7-40.25.

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

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

192 (2) 'Force majeure' means any:

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

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

196 (C) Acts of war (whether or not declared), carnage, blockade, or embargo;
197 (D) Acts of public enemy, acts or threats of terrorism or threats from terrorists, riot,
198 public disorder, or violent demonstrations;
199 (E) Strikes or other labor disturbances; or
200 (F) Expropriation, requisition, confiscation, impoundment, seizure, nationalization, or
201 compulsory acquisition of the site of a qualified project or any part thereof;
202 but such term shall not include any event or circumstance that could have been prevented,
203 overcome, or remedied in whole or in part by the taxpayer through the exercise of
204 reasonable diligence and due care, nor shall such term include the unavailability of funds.
205 (3) 'Full-time employee' means an individual holding a full-time employee job.
206 (4) 'Full-time employee job' and 'full-time job' mean employment of an individual which:
207 (A)(i) With respect to a qualified project, is located in this state at the
208 manufacturing facility resulting from such a qualified project; and
209 (ii) With respect to a high-impact aerospace defense project certified pursuant to
210 paragraph (2) of subsection (b) of this Code section on or after July 1, 2021, is located
211 in this state and results from such project;
212 (B) Involves a regular work week of 35 hours or more;
213 (C) Has no predetermined end date; and
214 (D) Pays at or above the average wage of the county with the lowest average wage in
215 the state, as reported in the most recently available annual issue of the Georgia
216 Employment and Wages Averages Report of the Department of Labor.
217 For purposes of this paragraph, leased employees will be considered employees of the
218 company using their services, and such persons may be counted in determining the
219 company's credits under this Code section if their employment otherwise meets the
220 definition of full-time job contained herein. In addition, an individual's employment shall
221 not be deemed to have a predetermined end date solely by virtue of a mandatory
222 retirement age set forth in a company policy of general application. The employment of

223 any individual in a bona fide executive, administrative, or professional capacity, within
224 the meaning of Section 13 of the federal Fair Labor Standards Act of 1938, as amended,
225 29 U.S.C. Section 213(a)(1), as such act existed on January 1, 2002, shall not be deemed
226 to have a predetermined end date solely by virtue of the fact that such employment is
227 pursuant to a fixed-term contract, provided that such contract is for a term of not less than
228 one year.

229 (4.1) 'High-impact aerospace defense project' means a qualified project with the
230 additional limitations that it is:

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

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

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

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

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

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

- 250 (7) 'Job requirement' means the requirement that:
- 251 (A) With respect to a qualified project, the number of full-time employees must equal
- 252 or exceed 1,800; or
- 253 (B) With respect to a high-impact aerospace defense project certified pursuant to
- 254 paragraph (2) of subsection (b) of this Code section on or after July 1, 2021, the number
- 255 of full-time employees must equal or exceed 1,000.
- 256 (8) 'Qualified investment property' means all real and personal property purchased or
- 257 acquired by a taxpayer for use in a qualified project, including, but not limited to,
- 258 amounts expended on land acquisition, improvements, buildings, building improvements,
- 259 and machinery and equipment to be used in the manufacturing facility.
- 260 (9) 'Qualified project' means the construction of a new manufacturing facility in this
- 261 state. For purposes of this paragraph, the term 'manufacturing facility' means a single
- 262 facility, including contiguous parcels of land, improvements to such land, buildings,
- 263 building improvements, and any machinery or equipment that is used in the process of
- 264 making, fabricating, constructing, forming, or assembling a product from components or
- 265 from raw, unfinished, or semifinished materials, and any support facility. For purposes
- 266 of this paragraph, the term 'support facility' means any warehouses, distribution centers,
- 267 storage facilities, research and development facilities, laboratories, repair and
- 268 maintenance facilities, corporate offices, sales or marketing offices, computer operations
- 269 facilities, or administrative offices that are contiguous to the manufacturing facility that
- 270 results from a qualified project, constructed or expanded as part of the same such project,
- 271 and designed primarily for activities supporting the manufacturing operations at such
- 272 manufacturing facility.
- 273 (10) 'Recapture period' means the period of ten consecutive taxable years that
- 274 commences after the taxable year in which the taxpayer has met both the investment
- 275 requirement and the job requirement.

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

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

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

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

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

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

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

- 302 (A) The full-time employee jobs ~~that will be located at the manufacturing facility~~
303 resulting from such project will pay average wages that are, as determined by the
304 Georgia Department of Labor for all jobs, for the county in question:
- 305 (i) Twenty percent above such average wage for projects located in tier 1 counties;
 - 306 (ii) Ten percent above such average wage for projects located in tier 2 counties; or
 - 307 (iii) Five percent above such average wage for projects located in tier 3 or tier 4
308 counties; or
- 309 (B) The project demonstrates high growth potential based upon the prior year's Georgia
310 net taxable income growth of over 20 percent from the previous year, if the taxpayer's
311 Georgia net taxable income in each of the two preceding years also grew by 20 percent
312 or more.
- 313 (c) Any lease for a period of five years or longer of any real or personal property used in
314 a new manufacturing facility which would otherwise constitute qualified investment
315 property shall be treated as the purchase or acquisition thereof by the lessee. The taxpayer
316 may treat the full value of the leased property as qualified investment property in the year
317 in which the lease becomes binding on the lessor and the taxpayer.
- 318 (d) A business enterprise whose application is approved shall be allowed a credit against
319 the tax imposed under this article in an amount equal to 6 percent of the cost of all qualified
320 investment property purchased or acquired by the business enterprise in such year, subject
321 to the conditions and limitations set forth in this Code section. Where the amount of such
322 credit exceeds a business enterprise's liability for such taxes in a taxable year, the excess
323 may be taken as a credit against such business enterprise's quarterly or monthly payment
324 under Code Section 48-7-103. The taxpayer may file an election with the commissioner
325 to take such credit against quarterly or monthly payments under Code Section 48-7-103
326 that become due before the due date of the income tax return on which such credit may be
327 claimed. In the event of such an election, the commissioner shall confirm with the taxpayer
328 a date, which shall not be later than 30 days after receipt of the taxpayer's election, when

329 the taxpayer may begin to take the credit against such quarterly or monthly payments.
330 Each employee whose employer receives credit against such business enterprise's quarterly
331 or monthly payment under Code Section 48-7-103 shall receive credit against his or her
332 income tax liability under Code Section 48-7-20 for the corresponding taxable year for the
333 full amount which would be credited against such liability prior to the application of the
334 credit provided for in this subsection. Credits against quarterly or monthly payments under
335 Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established
336 by this subsection shall not constitute income to the taxpayer.

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

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

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

349 (A) A description of the qualified project;

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

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

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

353 (E) Any tax credit previously taken by the taxpayer against Georgia income tax
354 liabilities or the taxpayer's quarterly or monthly payments under Code Section
355 48-7-103;

- 356 (F) The amount of tax credit carried over from prior years;
- 357 (G) The amount of tax credit utilized by the taxpayer in the current taxable year;
- 358 (H) The amount of tax credit to be carried over to subsequent tax years; and
- 359 (I) The monthly average number of full-time jobs during the taxable year;
- 360 (2) Any credit claimed under this Code section but not fully used in the manner
- 361 prescribed in subsection (d) of this Code section may be carried forward for 15 years
- 362 from the close of the later of:
- 363 (A) The taxable year in which the qualified investment property was acquired; or
- 364 (B) The taxable year in which both the job requirement and investment requirement are
- 365 satisfied.
- 366 The sale, merger, acquisition, or bankruptcy of any business enterprise shall not create
- 367 new eligibility in any succeeding business entity but any unused investment tax credit
- 368 may be transferred and continued by any transferee of the business enterprise;
- 369 (3) In the initial year in which the taxpayer claims the credit granted in subsection (d) of
- 370 this Code section, the taxpayer shall include in the description of the project required by
- 371 subparagraph (A) of paragraph (1) of this subsection information which demonstrates that
- 372 ~~the taxpayer has met both the investment requirement and project includes the acquisition~~
- 373 ~~of qualified investment property having an aggregate cost equal to or exceeding \$800~~
- 374 ~~million and that the job requirement was satisfied~~ during such year; and
- 375 (4) The utilization of the credit granted in subsection (d) of this Code section shall have
- 376 no effect on the taxpayer's ability to claim depreciation for tax purposes on the assets
- 377 acquired by the taxpayer, nor shall the credit have any effect on the taxpayer's basis in
- 378 such assets for the purpose of depreciation.
- 379 (f)(1) Except as provided in paragraph (2) of this subsection, in no event may credits
- 380 exceeding \$50 million in the aggregate be claimed under this Code section with respect
- 381 to any one project.

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

384 (g)(1) Except as provided in paragraph (2) of this subsection, a taxpayer who is
385 entitled to and takes credits provided by this Code section with respect to a qualified
386 project shall not be allowed to take any of the credits authorized by Code Section
387 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,
388 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
389 with respect to jobs, investments, child care, or ground-water usage shifts created by,
390 arising from, related to, or connected in any way with the same project. Such taxpayer
391 may take any credit authorized by Code Section 48-7-40.5 for the cost of retraining an
392 employee located at the site of such project or the manufacturing facility resulting
393 therefrom, but only with respect to costs incurred more than five years after the date the
394 manufacturing facility first becomes operational.

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

399 (h)(1) ~~Not~~ With respect to each qualified project, not more than 60 days after the close
400 of the fifth taxable year within the recapture period, the taxpayer shall file a report, using
401 such form and providing such information as the commissioner may reasonably require,
402 concerning whether it met the job maintenance requirement. If the taxpayer ~~has failed~~
403 fails to meet the job maintenance requirement, ~~the~~ such taxpayer ~~will~~ shall forfeit ~~the~~ its
404 right to all credits provided by this Code section for such project.

405 (2) Within 60 days after the close of the tenth taxable year within the recapture period,
406 any taxpayer that takes a credit allowed under this Code section with respect to a
407 high-impact aerospace defense project shall file a report, using such form and providing
408 such information as the commissioner may reasonably require, which establishes that the

409 taxpayer purchased or acquired at least \$800 million in qualified investment property and
410 employs at least 1,800 full-time employees with respect to such high-impact aerospace
411 defense project. If the taxpayer fails to establish that such objectives were met by the
412 close of the tenth taxable year within the recapture period, such taxpayer shall forfeit its
413 right to all credits provided by this Code section for such project.

414 (3) A taxpayer that forfeits such its right as provided in paragraph (1) or (2) of this
415 subsection is liable for all past taxes imposed by this article and all past payments under
416 Code Section 48-7-103 that were forgone by the state as a result of the credits provided
417 by this Code section, plus interest at the rate established by Code Section 48-2-40
418 computed from the date such taxes or payments would have been due if the credits had
419 not been taken. No later than 90 days after notification by the commissioner that the
420 taxpayer has failed to meet the job maintenance requirement or the objectives required
421 of a high-impact aerospace defense project, the taxpayer shall file amended income tax
422 and withholding tax returns for all affected periods that recalculate those liabilities
423 without regard to the forfeited credits and shall pay any additional amounts shown on
424 such returns, with interest as provided herein.

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

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

437 (j) If the manufacturing facility resulting from a qualified project is abandoned at any time
438 during the recapture period, the taxpayer will forfeit the right to all credits provided by this
439 Code section for such project. A taxpayer that forfeits such right is liable for all past taxes
440 imposed by this article and all past payments under Code Section 48-7-103 that were
441 forgone by the state as a result of the credits provided by this Code section, plus interest
442 at the rate established by Code Section 48-2-40 computed from the date such taxes or
443 payments would have been due if the credits had not been taken. For purposes of this
444 subsection, a manufacturing facility will be considered abandoned if there is, for any reason
445 other than force majeure, a complete cessation of manufacturing operations for a period of
446 12 consecutive months or more during the recapture period. Not more than 60 days after
447 the close of the recapture period, the taxpayer shall file a report, using such form and
448 providing such information as the commissioner may require, concerning whether such an
449 abandonment occurred. No later than 90 days after notification by the commissioner that
450 an abandonment occurred, the taxpayer shall file amended income tax and withholding tax
451 returns for all affected periods that recalculate those liabilities without regard to the
452 forfeited credits and shall pay any additional amounts shown on such returns, with interest
453 as provided herein.

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

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

464 **PART III**
 465 **SECTION 3-1.**

466 Reserved.

467 **PART IV**
 468 **SECTION 4-1.**

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

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

474 (2) Such credit shall be given for each taxable year beginning on or after
 475 January 1, 2019, and ending on or before December 30, ~~2023~~ 2026, in which the
 476 conditions of this Code section have been met.

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

479 (e) The tax credits given to a Class III railroad by this Code section that are not used by
 480 such Class III railroad shall be freely assignable one time between January 1, 2019, and
 481 January 1, ~~2024~~ 2027, by written agreement to a taxpayer subject to the tax imposed by this
 482 chapter.

483 (f) On or before September 1 of 2020 and annually thereafter until ~~2024~~ 2027, the
 484 commissioner shall issue a report to the chairpersons of the Senate Finance Committee and

485 the House Committee on Ways and Means concerning the tax credit created by this Code
486 section, which shall include the following statistics for the preceding taxable year:

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

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

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

493 (h) This Code section shall be automatically repealed on January 1, ~~2024~~ 2027."

494

PART V

495

SECTION 5-1.

496 Part 1 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
497 relating to general provisions regarding sales and use taxes, is amended by revising
498 paragraph (93) of Code Section 48-8-3, relating to exemptions from sales and use taxes, as
499 follows:

500 "(93)(A) For the period commencing January 1, 2012, until June 30, ~~2021~~ 2023, sales
501 of tangible personal property used for and in the construction of a competitive project
502 of regional significance.

503 (B) The exemption provided in subparagraph (A) of this paragraph shall apply to
504 purchases made during the entire time of construction of the competitive project of
505 regional significance so long as such project meets the definition of a competitive
506 project of regional significance within the period commencing January 1, 2012, until
507 June 30, ~~2021~~ 2023.

508 (C) The department shall not be required to pay interest on any refund claims filed for
509 local sales and use taxes paid on purchases made prior to the implementation of this
510 paragraph.

511 (D) As used in this paragraph, the term 'competitive project of regional significance'
512 means the location or expansion of some or all of a business enterprise's operations in
513 this state where the commissioner of economic development determines that the project
514 would have a significant regional impact. The commissioner of economic development
515 shall promulgate regulations in accordance with the provisions of this paragraph
516 outlining the guidelines to be applied in making such determination;"

517 **SECTION 5-2.**

518 Said part is further amended by revising paragraph (100) of Code Section 48-8-3, relating
519 to exemptions from sales and use taxes, as follows:

520 "(100)(A) Sales of tickets, fees, or charges for admission to a fine arts performance or
521 exhibition conducted within a facility in this state that is owned or operated by an
522 organization which is exempt from taxation under Section 501(c)(3) of the Internal
523 Revenue Code, or a museum of cultural significance, if such organization's or museum's
524 mission is to advance the arts in this state and to provide arts, educational, and
525 culturally significant programming and exhibits for the benefit and enrichment of the
526 citizens of this state.

527 (B) As used in this paragraph, the term 'fine arts' means music performed by a
528 symphony orchestra, poetry, photography, ballet, dance, opera, theater, dramatic arts,
529 painting, sculpture, ceramics, drawing, watercolor, graphics, printmaking, and
530 architecture.

531 (C) This paragraph shall stand repealed and reserved on December 31, 2022 Reserved;"

532

SECTION 5-3.

533 Said part is further amended in Code Section 48-8-3.2, relating to sales tax exemptions for
534 manufacturers, definitions, exemption, applicability, and examples, by revising paragraph
535 (12) of subsection (e) as follows:

536 "~~(12) Until July 1, 2020~~ For the period commencing on July 1, 2021, and ending on June
537 30, 2026, maintenance and replacement parts for machinery or equipment, stationary or in
538 transit, used to mix, agitate, and transport freshly mixed concrete in a plastic and
539 unhardened state, including but not limited to mixers and components, engines and
540 components, interior and exterior operational controls and components, hydraulics and
541 components, all structural components, and all safety components, provided that sales and
542 use taxes on motor fuel used as energy in a concrete mixer truck shall not be exempt or
543 refundable; and"

544

SECTION 5-4.

545 Said part is further amended by revising Code Section 48-8-3.4, relating to maximum amount
546 of sales and use tax on boats, annual reporting, and termination, as follows:

547 "48-8-3.4.

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

549 (1) 'Boat' means a vehicle used or capable of being used as a means of transportation on
550 the water.

551 (2) 'Event' means an uninterrupted period of time beginning when a boat arrives at a
552 maintenance, refit, or repair facility in this state and ending when such boat departs such
553 facility.

554 (b) Notwithstanding any other provision of this article, the maximum amount of sales and
555 use tax imposed and collected to maintain, refit, or repair a boat in this state during a single
556 event shall not exceed \$35,000.00.

557 (c) The commissioner shall promulgate any rules and regulations necessary to implement
558 and administer this Code section, including, but not limited to, calling for an annual report
559 to be issued to the department and the chairpersons of the House Committee on Ways and
560 Means and the Senate Finance Committee that contains the following:

561 (1) The number of full-time and part-time positions created by the seller during the
562 preceding tax year;

563 (2) The average salary of individuals employed in the reported positions; and

564 (3) The total revenue generated and sales and use taxes collected from qualifying events
565 during the preceding year.

566 (d) This Code section shall be automatically repealed on June 30, ~~2025~~ 2031."

567

PART VI

568

SECTION 6-1.

569 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the
570 imposition, rate, and computation and exemptions from state income taxes, is amended by
571 revising Code Section 48-7-29.8, relating to tax credits for the rehabilitation of historic
572 structures, as follows:

573 "48-7-29.8.

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

575 (1) 'Certified rehabilitation' means repairs or alterations to a certified structure which are
576 certified by the Department of Community Affairs as meeting the United States Secretary
577 of the Interior's Standards for Rehabilitation or the Georgia Standards for Rehabilitation
578 as provided by the Department of Community Affairs.

579 (2) 'Certified structure' means a historic building or structure that is located within a
580 national historic district, individually listed on the National Register of Historic Places,
581 individually listed in the Georgia Register of Historic Places, or is certified by the

582 Department of Community Affairs as contributing to the historic significance of a
583 Georgia Register Historic District.

584 (3) 'Historic home' means a certified structure which, or any portion of which is or will,
585 within a reasonable period, be owned and used as the principal residence of the person
586 claiming the tax credit allowed under this Code section. Historic home shall include any
587 structure or group of structures that constitute a multifamily or multipurpose structure,
588 including a cooperative or condominium. If only a portion of a building is used as such
589 person's principal residence, only those qualified rehabilitation expenditures that are
590 properly allocable to such portion shall be deemed to be made to a historic home.

591 (4) 'Qualified rehabilitation expenditure' means any qualified rehabilitation expenditure
592 as defined by Section 47(c)(2) of the Internal Revenue Code of 1986 and any amount
593 properly chargeable to a capital account expended in the substantial rehabilitation of a
594 structure that by the end of the taxable year in which the certified rehabilitation is
595 completed is a certified structure. This term does not include the cost of acquisition of
596 the certified structure, the cost attributable to enlargement or additions to an existing
597 building, site preparation, or personal property.

598 (5) 'Substantial rehabilitation' means rehabilitation of a certified structure for which the
599 qualified rehabilitation expenditures, at least 5 percent of which must be allocable to the
600 exterior during the 24 month period selected by the taxpayer ending with or within the
601 taxable year, exceed:

602 (A) For a historic home, the lesser of \$25,000.00 or 50 percent of the adjusted basis of
603 the property as defined in subparagraph (a)(1)(B) of Code Section 48-5-7.2; or, in the
604 case of a historic home located in a target area, \$5,000.00; or

605 (B) For any other certified structure, the greater of \$5,000.00 or the adjusted basis of
606 the property.

607 (6) 'Target area' means a qualified census tract under Section 42 of the Internal Revenue
608 Code of 1986, found in the United States Department of Housing and Urban
609 Development document number N-94-3821; FR-3796-N-01.

610 (b) A taxpayer shall be allowed a tax credit against the tax imposed by this chapter in the
611 year that the certified rehabilitation is placed in service, which may be up to two years after
612 the end of the taxable year for which the credit was originally reserved:

613 (1) In the case of a historic home, equal to 25 percent of qualified rehabilitation
614 expenditures, except that, in the case of a historic home located within a target area, an
615 additional credit equal to 5 percent of qualified rehabilitation expenditures shall be
616 allowed; and

617 (2) In the case of any other certified structure, equal to 25 percent of qualified
618 rehabilitation expenditures.

619 Qualified rehabilitation expenditures may only be counted once in determining the amount
620 of the tax credit available, and more than one entity may not claim a credit for the same
621 qualified rehabilitation expenditures.

622 (c)(1) In no event shall credits for a historic home exceed \$100,000.00 in any 120 month
623 period.

624 (2) The maximum credit for any other individual certified structure shall be \$5 million
625 for any taxable year, except in the case that the project creates 200 or more full-time,
626 permanent jobs or \$5 million in annual payroll within two years of the placed in service
627 date, in which case the project is eligible for credits up to \$10 million for an individual
628 certified structure. In no event shall more than one application for any individual certified
629 structure under this paragraph be approved in any 120 month period.

630 (3)(A) Prior to January 1, 2022, in In no event shall credits issued under this Code
631 section for projects earning more than \$300,000.00 in credits exceed in the aggregate
632 \$25 million per calendar year.

633 (B) For calendar year 2022, in no event shall credits issued under this Code section
634 exceed \$5 million in aggregate for all projects earning \$300,000.00 or less, or \$25
635 million in aggregate for all projects earning more than \$300,000.00.

636 (C) On and after January 1, 2023, in no event shall credits be issued under this Code
637 section.

638 (d)(1) A taxpayer seeking to claim a tax credit under paragraph (2) of subsection (b) of
639 this Code section shall submit an application to the commissioner for preapproval of such
640 tax credit. Such application shall include a precertification from the Department of
641 Community Affairs certifying that the improvements to the certified structure are to be
642 consistent with the Department of Community Affairs Standards for Rehabilitation. The
643 Department shall have the authority to require electronic submission of such application
644 in the manner specified by the department. The commissioner shall preapprove the tax
645 credits within 30 days based on the order in which properly completed applications were
646 submitted. In the event that two or more applications were submitted on the same day
647 and the amount of funds available will not be sufficient to fully fund the tax credits
648 requested, the commissioner shall prorate the available funds between or among the
649 applicants. For applications on projects over the annual \$25 million limitation, those
650 applications shall be given priority the following year.

651 (2) In order to be eligible to receive the credit authorized under subsection (b) of this
652 Code section, a taxpayer must attach to the taxpayer's state tax return a copy of the
653 completed certification of the Department of Community Affairs verifying that the
654 improvements to the certified structure are consistent with the Department of Community
655 Affairs Standards for Rehabilitation.

656 (e)(1) If the credit allowed under paragraph (1) of subsection (b) of this Code section in
657 any taxable year exceeds the total tax otherwise payable by the taxpayer for that taxable
658 year, the taxpayer may apply the excess as a credit for succeeding years until the earlier
659 of:

- 660 (A) The full amount of the excess is used; or
- 661 (B) The expiration of the tenth taxable year after the taxable year in which the certified
- 662 rehabilitation has been completed.
- 663 (2) Any tax credits with respect to credits earned by a taxpayer under paragraph (2) of
- 664 subsection (b) of this Code section and previously claimed but not used by such taxpayer
- 665 against its income tax may be transferred or sold in whole or in part by such taxpayer to
- 666 another Georgia taxpayer, subject to the following conditions:
- 667 (A) A taxpayer who makes qualified rehabilitation expenditures may sell or assign all
- 668 or part of the tax credit that may be claimed for such costs and expenses to one or more
- 669 entities, but no further sale or assignment of any credit previously sold or assigned
- 670 pursuant to this subparagraph shall be allowed. All such transfers shall be subject to
- 671 the maximum total limits provided by subsection (c) of this Code section;
- 672 (B) A taxpayer who sells or assigns a credit under this Code section and the entity to
- 673 which the credit is sold or assigned shall jointly submit written notice of the sale or
- 674 assignment to the department not later than 30 days after the date of the sale or
- 675 assignment. The notice must include:
- 676 (i) The date of the sale or assignment;
- 677 (ii) The amount of the credit sold or assigned;
- 678 (iii) The names and federal tax identification numbers of the entity that sold or
- 679 assigned the credit or part of the credit and the entity to which the credit or part of the
- 680 credit was sold or assigned; and
- 681 (iv) The amount of the credit owned by the selling or assigning entity before the sale
- 682 or assignment and the amount the selling or assigning entity retained, if any, after the
- 683 sale or assignment;
- 684 (C) The sale or assignment of a credit in accordance with this Code section does not
- 685 extend the period for which a credit may be carried forward and does not increase the
- 686 total amount of the credit that may be claimed. After an entity claims a credit for

687 eligible costs and expenses, another entity may not use the same costs and expenses as
688 the basis for claiming a credit;

689 (D) Notwithstanding the requirements of this subsection, a credit earned or purchased
690 by, or assigned to, a partnership, limited liability company, Subchapter 'S' corporation,
691 or other pass-through entity may be allocated to the partners, members, or shareholders
692 of that entity and claimed under this Code section in accordance with the provisions of
693 any agreement among the partners, members, or shareholders of that entity and without
694 regard to the ownership interest of the partners, members, or shareholders in the
695 rehabilitated certified structure, provided that the entity or person that claims the credit
696 must be subject to Georgia tax; and

697 (E) Only a taxpayer who earned a credit, and no subsequent good faith transferee, shall
698 be responsible in the event of a recapture, reduction, disallowance, or other failure
699 related to such credit.

700 (3) No such credit shall be allowed the taxpayer against prior years' tax liability.

701 (f) In the case of any rehabilitation which may reasonably be expected to be completed in
702 phases set forth in architectural plans and specifications completed before the rehabilitation
703 begins, a 60 month period may be substituted for the 24 month period provided for in
704 paragraph (5) of subsection (a) of this Code section.

705 (g)(1) Except as otherwise provided in subsection (h) of this Code section, in the event
706 a tax credit under this Code section has been claimed and allowed the taxpayer, upon the
707 sale or transfer of the certified structure, the taxpayer shall be authorized to transfer the
708 remaining unused amount of such credit to the purchaser of such certified structure. If
709 a historic home for which a certified rehabilitation has been completed by a nonprofit
710 corporation is sold or transferred, the full amount of the credit to which the nonprofit
711 corporation would be entitled if taxable shall be transferred to the purchaser or transferee
712 at the time of sale or transfer.

713 (2) Such purchaser shall be subject to the limitations of subsection (e) of this Code
714 section. Such purchaser shall file with such purchaser's tax return a copy of the approval
715 of the rehabilitation by the Department of Community Affairs as provided in
716 subsection (d) of this Code section and a copy of the form evidencing the transfer of the
717 tax credit.

718 (3) Such purchaser shall be entitled to rely in good faith on the information contained in
719 and used in connection with obtaining the approval of the credit including, without
720 limitation, the amount of qualified rehabilitation expenditures.

721 (h)(1) If an owner other than a nonprofit corporation sells a historic home within three
722 years of receiving the credit, the seller shall recapture the credit to the Department of
723 Revenue as follows:

724 (A) If the property is sold within one year of receiving the credit, the recapture amount
725 will equal the lesser of the credit or the net profit of the sale;

726 (B) If the property is sold within two years of receiving the credit, the recapture
727 amount will equal the lesser of two-thirds of the credit or the net profit of the sale; or

728 (C) If the property is sold within three years of receiving the credit, the recapture
729 amount will equal the lesser of one-third of the credit or the net profit of the sale.

730 (2) The recapture provisions of this subsection shall not apply to a sale resulting from the
731 death of the owner.

732 (i)(1) In the event that a taxpayer claims the tax credit under paragraph (2) of
733 subsection (b) of this Code section and leases such certified structure, the department
734 shall aggregate all total sales tax receipts from the certified structure.

735 (2) Any taxpayer claiming credits under paragraph (2) of subsection (b) of this Code
736 section shall report to the department the average full-time employees employed at the
737 certified structure. A full-time employee for the purposes of this Code section shall mean
738 a person who works a job that requires 30 or more hours per week. Such reports must be

739 submitted to the department for five calendar years following the year in which the credit
740 is claimed by the taxpayer.

741 (3) In the event that a taxpayer claims the tax credit under paragraph (2) of subsection (b)
742 of this Code section and leases such certified structure, the department shall aggregate all
743 total full-time employees at the certified structure.

744 (j) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, the department shall
745 furnish a report to the chairperson of the House Committee on Ways and Means and the
746 chairperson of the Senate Finance Committee by June 30 of each year. Such report shall
747 contain the total sales tax collected in the prior calendar year and the average number of
748 full-time employees at the certified structure and the total value of credits claimed for each
749 taxpayer claiming credits under paragraph (2) of subsection (b) of this Code section.

750 (k) The tax credit allowed under paragraph (1) of subsection (b) of this Code section, and
751 any recaptured tax credit, shall be allocated among some or all of the partners, members,
752 or shareholders of the entity owning the project in any manner agreed to by such persons,
753 whether or not such persons are allocated or allowed any portion of any other tax credit
754 with respect to the project.

755 (l) The Department of Community Affairs and the Department of Revenue shall prescribe
756 such regulations as may be appropriate to carry out the purposes of this Code section.

757 (m) The Department of Community Affairs shall report, on an annual basis, on the overall
758 economic activity, usage, and impact to the state from the rehabilitation of eligible
759 properties for which credits provided by this Code section have been allowed.

760 (n) This Code section shall stand repealed and reserved by operation of law on
761 December 31, 2022."

762 **SECTION 6-2.**

763 Section 2 of Ga. L. 2015, p. 1340, approved May 12, 2015, is hereby repealed in its entirety.

764

PART VII

765

SECTION 7-1.

766 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 767 amended by revising paragraph (3) of subsection (a) of Code Section 48-7-40.12, relating to
 768 tax credit for qualified research expenses, as follows:

769 "(3) 'Business enterprise' means any business or the headquarters of any such business
 770 which is engaged in manufacturing, warehousing and distribution, processing,
 771 telecommunications, broadcasting, tourism, and research and development industries. Such
 772 term shall not include retail businesses. Any business or the headquarters of any such
 773 business that otherwise meets the definition of a business enterprise shall not be considered
 774 a retail business due to the retail activities of any of its affiliate entities, as such term is
 775 defined in subsection (a) of Code Section 48-7-42."

776

SECTION 7-2.

777 Said title is further amended by revising paragraph (68) of Code Section 48-8-3, relating to
 778 exemptions, as follows:

779 "(68)(A) The sale or lease of computer equipment to be incorporated into a facility or
 780 facilities in this state to any high-technology company classified under the 2017 North
 781 American Industrial Classification System code ~~51121, 51331, 51333, 51334, 51421,~~
 782 ~~52232, 54133, 54171, 54172,~~ 334413, 334611, ~~513321, 513322, 514191,~~ 334614,
 783 511210, 517311, 517312, 517410, 517911, 517919, 518210, 522320, 541330, 541511,
 784 541512, 541513, or 541519, 541713, 541715, or 541720 where such sale of computer
 785 equipment for any calendar year exceeds \$15 million or, in the event of a lease of such
 786 computer equipment, the fair market value of such leased computer equipment for any
 787 calendar year exceeds \$15 million.

788 (B) Any person making a sale or lease of computer equipment to a high-technology
789 company as specified in subparagraph (A) of this paragraph shall collect the tax
790 imposed on the sale by this article unless the purchaser furnishes such seller with a
791 certificate issued by the commissioner certifying that the purchaser is entitled to
792 purchase the computer equipment without paying the tax. As a condition precedent to
793 the issuance of the certificate, the commissioner, at such commissioner's discretion,
794 may require a good and valid bond with a surety company authorized to do business in
795 this state as surety or may require legal securities, in an amount fixed by the
796 commissioner, conditioned upon payment by the purchaser of all taxes due under this
797 article in the event it should be determined that the sale fails to meet the requirements
798 of this subparagraph.

799 (C)(i) As used in this paragraph, the term 'computer equipment' means any individual
800 computer or organized assembly of hardware or software, such as a server farm,
801 mainframe or midrange computer, mainframe driven high-speed print and mailing
802 devices, and workstations connected to those devices via high bandwidth connectivity
803 such as a local area network, wide area network, or any other data transport
804 technology which performs one of the following functions: storage or management
805 of production data, hosting of production applications, hosting of application systems
806 development activities, or hosting of applications systems testing.

807 (ii) The term shall not include:

808 (I) Telephone central office equipment or other voice data transport technology,
809 including any wireline or wireless telecommunication system; or

810 (II) Equipment with imbedded computer hardware or software which is primarily
811 used for training, product testing, or in a manufacturing process.

812 (D) Any corporation, partnership, limited liability company, or any other similar entity
813 which qualifies for the exemption and is affiliated in any manner with a nonqualified

814 corporation, partnership, limited liability company, or any other similar entity must
815 conduct at least a majority of its business with entities with which it has no affiliation.
816 (E) Each high-technology company that has been issued a certificate of exemption
817 pursuant to this paragraph shall report annually to the commissioner a list of the
818 facilities for which all computer equipment exempted by this paragraph during the
819 preceding calendar year was incorporated, as well as the amount of taxes exempted
820 under this paragraph during the preceding calendar year. Such report shall be filed
821 within 90 days after the end of the calendar year for which the high-technology
822 company utilized a certificate of exemption pursuant to this paragraph and shall be
823 subject to the confidentiality provisions of Code Section 48-2-15. The commissioner
824 shall not issue a certificate of exemption under this paragraph for the calendar year next
825 succeeding the reporting date to any high-technology company that has failed to
826 comply with the reporting required by this subparagraph.
827 (F) The commissioner shall promulgate such rules and regulations as are necessary to
828 implement the provisions of this paragraph.
829 (G) This paragraph shall stand repealed and reserved by operation of law at the last
830 moment of June 30, 2023."

831 **PART VIII**
832 **SECTION 8-1.**

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

834 **SECTION 8-2.**

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