

House Bill 224 (AS PASSED HOUSE AND SENATE)

By: Representatives Williamson of the 115th, Kelley of the 16th, Powell of the 171st, Harrell of the 106th, Meeks of the 178th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,
2 relating to the imposition, rate, computation, and exemptions from state income tax, so as to
3 revise procedures, conditions, and limitations relating to tax credits for the rehabilitation of
4 historic structures; to modify conditions for earning a tax credit for establishing or relocating
5 quality jobs; to revise a tax credit for new purchases and acquisitions of qualified investment
6 property in tier 1 counties; to provide for such tax credits to be allowed against a taxpayer's
7 payroll withholding under certain conditions; to provide that certain previously claimed and
8 unused tax credits earned by taxpayers may be applied against such taxpayers' payroll
9 withholding under certain conditions; to increase the minimum investment threshold to earn
10 tax credits in tier 2, tier 3, and tier 4 counties; to provide for conditions and limitations; to
11 provide for applications and proration; to revise definitions; to provide for related matters;
12 to provide for an effective date and applicability; to repeal conflicting laws; and for other
13 purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 style="text-align:center">**PART I**
16 style="text-align:center">**SECTION 1-1.**

17 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
18 amended in Code Section 48-7-29.8, relating to tax credits for the rehabilitation of historic
19 structures and conditions and limitations, by revising subsection (b) as follows:

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

24 (1) In the case of a historic home, equal to 25 percent of qualified rehabilitation
25 expenditures, except that, in the case of a historic home located within a target area, an

26 additional credit equal to 5 percent of qualified rehabilitation expenditures shall be
 27 allowed; and

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

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

33 PART II

34 SECTION 2-1.

35 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the
 36 imposition, rate, computation, and exemptions from state income tax, is amended by revising
 37 Code Section 48-7-40.17, relating to establishing or relocating quality jobs and tax credit, as
 38 follows:

39 "48-7-40.17.

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

41 (1) 'Average wage' means the average wage of the county in which a new quality job is
 42 located as reported in the most recently available annual issue of the Georgia
 43 Employment and Wages Averages Report of the Department of Labor.

44 (2) 'New quality job' means employment for an individual which:

45 (A) Is located in this state;

46 (B) Has a regular work week of 30 hours or more;

47 (C) Is not a job that is or was already located in Georgia regardless of which taxpayer
 48 the individual performed services for; and

49 (D) Pays at or above 110 percent of the average wage of the county in which it is
 50 located.

51 (3) 'Qualified investment property' means all real and personal property purchased or
 52 acquired by a taxpayer for use in a qualified project, including, but not limited to,
 53 amounts expended on land acquisition, improvements, buildings, building improvements,
 54 and any personal property to be used in the facility or facilities. Any lease for a period
 55 of three years or longer of any real or personal property used in a new or expanded
 56 facility or facilities which would otherwise constitute qualified investment property shall
 57 be treated as the purchase or acquisition thereof by the lessee. The taxpayer may treat the
 58 full value of the leased property as qualified investment property in the year in which the
 59 lease becomes binding on the lessor and the taxpayer.

60 (4) 'Qualified investment property requirement' means the requirement that a minimum
 61 of \$2.5 million in qualified investment property will have been purchased or acquired by
 62 the taxpayer to be used with respect to a qualified project. Such qualified investment
 63 property must be placed in service by the end of the two-year period specified in
 64 subsection (b) of this Code section.

65 (5) 'Qualified project' means a project which meets the qualified investment property
 66 requirement and which involves the lease or construction of one or more new facilities
 67 in this state or the expansion of one or more existing facilities in this state. For purposes
 68 of this paragraph, the term 'facilities' means all facilities comprising a single project,
 69 including noncontiguous parcels of land, improvements to such land, buildings, building
 70 improvements, and any personal property that is used in the facility or facilities.

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

76 ~~(6)(7)~~ 'Taxpayer' means any person required by law to file a return or to pay taxes,
 77 except that any taxpayer may elect to consider the jobs within its disregarded entities, as
 78 defined in the Internal Revenue Code, for purposes of calculating the number of new
 79 quality jobs created by the taxpayer under this Code section.

80 (b) A taxpayer establishing new quality jobs in this state or relocating quality jobs into this
 81 state, which elects not to receive the tax credits provided for by Code Sections 48-7-40,
 82 48-7-40.1, 48-7-40.2, 48-7-40.3, 48-7-40.4, 48-7-40.7, 48-7-40.8, and 48-7-40.9 for such
 83 jobs and investments created by, arising from, related to, or connected in any way with the
 84 same project, that creates: ~~and, within one year of the first date on which the taxpayer~~
 85 ~~pursuant to the provisions of Code Section 48-7-101 withholds wages for employees in this~~
 86 ~~state and employs at least 50 persons in new quality jobs in this state, shall be allowed a~~
 87 ~~credit for taxes imposed under this article; except that if the first date on which the~~
 88 ~~taxpayer, pursuant to the provisions of Code Section 48-7-101, withholds wages for~~
 89 ~~employees in this state occurs in a taxable year beginning on or after January 1, 2017, the~~
 90 ~~taxpayer has two years to employ at least 50 persons in new quality jobs in this state:~~

91 (1) At least ten new quality jobs within a single rural county within one year of the first
 92 date on which the taxpayer withholds wages for employees in this state pursuant to the
 93 provisions of Code Section 48-7-101, provided that such county is designated as a tier 1
 94 county by the commissioner of community affairs in accordance with Code
 95 Section 48-7-40;

96 (2) At least 25 new quality jobs within a single rural county within one year of the first
 97 date on which the taxpayer withholds wages for employees in this state pursuant to the
 98 provisions of Code Section 48-7-101, provided that such county is designated as a tier 2
 99 county by the commissioner of community affairs in accordance with Code
 100 Section 48-7-40; or

101 (3) At least 50 new quality jobs in this state within two years of the first date on which
 102 the taxpayer pursuant to the provisions of Code Section 48-7-101 withholds wages for
 103 employees in this state

104 shall be allowed a credit for taxes imposed under this article as provided in subsection (b.1)
 105 of this Code section.

106 (b.1) The value of the credit allowed pursuant to this Code section shall be:

107 (1) Equal to \$2,500.00 annually per eligible new quality job where the job pays 110
 108 percent or more but less than 120 percent of the average wage of the county in which the
 109 new quality job is located;

110 (2) Equal to \$3,000.00 annually per eligible new quality job where the job pays 120
 111 percent or more but less than 150 percent of the average wage of the county in which the
 112 new quality job is located;

113 (3) Equal to \$4,000.00 annually per eligible new quality job where the job pays 150
 114 percent or more but less than 175 percent of the average wage of the county in which the
 115 new quality job is located;

116 (4) Equal to \$4,500.00 annually per eligible new quality job where the job pays 175
 117 percent or more but less than 200 percent of the average wage of the county in which the
 118 new quality job is located; and

119 (5) Equal to \$5,000.00 annually per eligible new quality job where the job pays 200
 120 percent or more of the average wage of the county in which the new quality job is
 121 located;

122 ~~provided, however, that where~~

123 (b.2)(1) If the amount of such credit the tax credit allowed pursuant to this Code section
 124 exceeds a taxpayer's liability for such taxes in a taxable year, the excess may be taken as
 125 a credit against such taxpayer's quarterly or monthly payment under Code
 126 Section 48-7-103 but shall not to exceed in any one taxable year the credit amounts in
 127 paragraphs (1) through (5) of subsection (b.1) of this subsection Code section for each
 128 new quality job when aggregated with the credit applied against taxes under this article.
 129 Each employee whose employer receives a credit against such taxpayer's quarterly or
 130 monthly payment under Code Section 48-7-103 shall receive a credit against his or her
 131 income tax liability under Code Section 48-7-20 for the corresponding taxable year for
 132 the full amount which would be credited against such liability prior to the application of

133 the credit provided for in this ~~subsection~~ Code section. Credits against quarterly or
 134 monthly payments under Code Section 48-7-103 and credits against liability under Code
 135 Section 48-7-20 established by this subsection shall not constitute income to the taxpayer.

136 (2)(A) For each new quality job created, the credit ~~established by this subsection~~
 137 allowed pursuant to this Code section may be taken for the first taxable year in which
 138 the new quality job is created and for the four immediately succeeding taxable years;
 139 provided, however, that such new quality jobs must be created within seven years from
 140 the close of the taxable year in which the taxpayer first becomes eligible for such credit.

141 (B) ~~A credit~~ Credit shall not be allowed during a year if the net employment increase
 142 falls below the ~~50~~ number of new quality jobs required by subsection (b) of this Code
 143 section. Any credit received for years prior to the year in which the net employment
 144 increase falls below the ~~50~~ number of new quality jobs required by subsection (b) of
 145 this Code section shall not be affected except as provided in subsection (g) of this Code
 146 section. The state revenue commissioner shall adjust the credit allowed each year for
 147 net new employment fluctuations above the ~~50~~ number of new quality jobs required by
 148 subsection (b) of this Code section.

149 (c) Only a taxpayer that completes the creation of a qualified project in a taxable year
 150 beginning on or after January 1, 2017, shall be eligible to begin a subsequent seven-year
 151 job creation period for the qualified project, provided that the taxpayer creates 50 or more
 152 new quality jobs, at the site or sites of a qualified project or the facility or facilities
 153 resulting therefrom, above its single previous high yearly average number of new quality
 154 jobs during any prior seven-year job creation period. A subsequent seven-year job creation
 155 period is subject to all the requirements of this Code section. A taxpayer must notify the
 156 commissioner of ~~their~~ its intent to begin a subsequent seven-year job creation period. The
 157 commissioner shall provide by regulation the time in which such notification shall occur.
 158 New quality jobs generated under previous seven-year job creation periods shall continue
 159 to be eligible for the credit as provided by this Code section. No new quality jobs may be
 160 generated under previous periods of eligibility after a subsequent period of eligibility has
 161 begun. New quality jobs created in a subsequent seven-year job creation period shall not
 162 be counted as additional new quality jobs under a previous seven-year job creation period;
 163 instead those new quality jobs shall count toward the subsequent period. For purposes of
 164 determining the number of new quality jobs in a particular year that are attributable to each
 165 seven-year job creation period, the taxpayer shall begin with the first seven-year job
 166 creation period and then attribute the remainder to each subsequent seven-year job creation
 167 period from the oldest to the newest. Such attributions shall be made up to the single high
 168 yearly average number of new quality jobs for each seven-year job creation period. A
 169 taxpayer may create more than one subsequent seven-year job creation period. If at the

170 time a taxpayer begins a subsequent seven-year job creation period, the taxpayer had a year
 171 or years in the prior seven-year job creation period where the number of new quality jobs
 172 ~~were~~ was below the single high yearly average number of new quality jobs, the taxpayer
 173 shall be allowed to make an irrevocable election to use the average number of new quality
 174 jobs for the completed years in the prior seven-year job creation period instead of the single
 175 high yearly average number of new quality jobs for all purposes of this subsection. If such
 176 election is made, the number of new quality jobs in the years subsequent to the completed
 177 years for the prior seven-year job creation period shall be deemed to not exceed the average
 178 number of new quality jobs for the completed years in the prior seven-year job creation
 179 period. New quality jobs over such average number shall be attributed to the subsequent
 180 seven-year job creation period as provided in this subsection.

181 (d) The number of new quality jobs to which this Code section shall be applicable shall
 182 be determined by comparing the monthly average of new quality jobs subject to Georgia
 183 income tax withholding for the taxable year with the corresponding average for the prior
 184 taxable year.

185 (e) Any credit claimed under this Code section but not used in any taxable year may be
 186 carried forward for ten years from the close of the taxable year in which the new quality
 187 jobs were established.

188 (f) Notwithstanding Code Section 48-2-35, any tax credit claimed under this Code section
 189 shall be claimed within one year of the earlier of the date the original return was filed or
 190 the date such return was due as prescribed in subsection (a) of Code Section 48-7-56,
 191 including any approved extensions.

192 (g) Taxpayers that initially claimed the credit under this Code section for any taxable year
 193 beginning before January 1, ~~2012~~ 2020, shall be governed, for purposes of all such credits
 194 claimed as well as any credits claimed in subsequent taxable years related to such initial
 195 claim, by this Code section as it was in effect for the taxable year in which the taxpayer
 196 made such initial claim.

197 (h) The state revenue commissioner shall promulgate any rules and regulations necessary
 198 to implement and administer this Code section."

199 **PART III**
 200 **SECTION 3-1.**

201 Said article is further amended by revising Code Section 48-7-40.2, relating to tax credits for
 202 existing manufacturing and telecommunications facilities in tier 1 counties and conditions
 203 and limitations, as follows:

204 "48-7-40.2.

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

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

210 (2) 'Qualified investment property' means all real and personal property purchased or
211 acquired by a taxpayer for use in the construction of an additional manufacturing or
212 telecommunications facility to be located in this state or the expansion of an existing
213 manufacturing or telecommunications facility located in this state, including, but not
214 limited to, amounts expended on land acquisition, improvements, buildings, building
215 improvements, and machinery and equipment to be used in the manufacturing or
216 telecommunications facility. The department shall promulgate rules defining eligible
217 manufacturing facilities, telecommunications facilities, and qualified investment property
218 pursuant to this paragraph.

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

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

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

232 (6) 'Recycling manufacturing facility' means any facility, including land, improvements
233 to land, buildings, building improvements, and any recycling machinery and equipment
234 used in the recycling process resulting in the manufacture of finished products from
235 recovered materials, provided that up to 10 percent of any building that is a component
236 of a recycling facility may be used for office space to house support staff for the recycling
237 operation.

238 (7) 'Rural county' means a county that has a population of less than 50,000 with 10
239 percent or more of such population living in poverty based upon the most recent, reliable,
240 and applicable data published by the United States Bureau of the Census. On or before

241 December 31 of each year, the commissioner of the Department of Community Affairs
 242 shall publish a list of such counties.

243 (b) In the case of a taxpayer which has operated for the immediately preceding three years
 244 an existing manufacturing or telecommunications facility or a manufacturing or
 245 telecommunications support facility in this state in a tier 1 county designated pursuant to
 246 Code Section 48-7-40, there shall be allowed a credit against the tax imposed under this
 247 article in an amount equal to 5 percent of the cost of all qualified investment property
 248 purchased or acquired by the taxpayer in such year, subject to the conditions and
 249 limitations set forth in this Code section. In the event such qualified investment property
 250 purchased or acquired by the taxpayer in such year consists of recycling machinery or
 251 equipment, a recycling manufacturing facility, pollution control or prevention machinery
 252 or equipment, a pollution control or prevention facility, or the conversion from defense to
 253 domestic production, the amount of such credit shall be equal to 8 percent.

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

256 (1) In order to qualify as a basis for the credit, the investment in qualified investment
 257 property must occur no sooner than January 1, 1995. The credit may be taken beginning
 258 with the tax year immediately following the tax year in which the qualified investment
 259 property having an aggregate cost in excess of \$50,000.00 is purchased or acquired by
 260 the taxpayer; provided, however, that for tax years beginning on or after January 1, 2020,
 261 the credit may only be taken beginning with the tax year immediately following the tax
 262 year in which the qualified investment property having an aggregate cost in excess of
 263 \$100,000.00 is purchased or acquired by the taxpayer. For every year in which a
 264 taxpayer claims the credit, the taxpayer shall attach a schedule to the taxpayer's Georgia
 265 income tax return which will set forth the following information, as a minimum:

- 266 (A) A description of the project;
- 267 (B) The amount of qualified investment property acquired during the taxable year;
- 268 (C) The amount of tax credit claimed for the taxable year;
- 269 (D) The amount of qualified investment property acquired in prior taxable years;
- 270 (E) Any tax credit utilized by the taxpayer in prior taxable years;
- 271 (F) The amount of tax credit carried over from prior years;
- 272 (G) The amount of tax credit utilized by the taxpayer in the current taxable year; and
- 273 (H) The amount of tax credit to be carried over to subsequent tax years;

274 (2)(A) Any credit claimed under this Code section but not used in any taxable year
 275 may be carried forward for ten years from the close of the taxable year in which the
 276 qualified investment property was acquired, provided that such qualified investment
 277 property remains in service;

278 (B)(i) The credit established by this Code section taken in any one taxable year shall
 279 be limited to an amount not greater than 50 percent of the taxpayer's state income tax
 280 liability which is attributable to income derived from operations in this state for that
 281 taxable year.

282 (ii) Notwithstanding division (i) of this subparagraph, for credit earned pursuant to
 283 this Code section from purchases of qualified investment property for a
 284 manufacturing or telecommunications facility in a rural county made on or after
 285 January 1, 2020, such credit shall:

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

289 (II) If the amount of such credit exceeds the limit set forth in subdivision (I) of this
 290 division, the excess may be taken as a credit of up to \$1 million for any one taxable
 291 year against such taxpayer's quarterly or monthly payments under Code
 292 Section 48-7-103, provided that such \$1 million limit shall be reduced by any
 293 amount taken by such taxpayer pursuant to subdivision (c)(2)(B)(ii)(II) of Code
 294 Section 48-7-40.3. Each employee for whom an employer receives credit against
 295 such employer's quarterly or monthly payment under Code Section 48-7-103 shall
 296 receive credit against his or her income tax liability under Code Section 48-7-20 for
 297 the corresponding taxable year for the full amount which would be credited against
 298 such liability prior to the application of the credit provided for in this paragraph.
 299 Credits against quarterly or monthly payments under Code Section 48-7-103 and
 300 credits against liability under Code Section 48-7-20 established by this
 301 subparagraph shall not constitute income to the employee;

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

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

313 (D) The automatic repeal of paragraph (2.1) of this subsection on December 31, 2024,
 314 shall not impair or affect a taxpayer's ability or right to apply an unused credit for a

315 taxable year after December 31, 2024, that such taxpayer accrued pursuant to and under
 316 the conditions of said paragraph prior to its automatic repeal.

317 (2.1)(A) Any credit claimed prior to January 1, 2020, pursuant to this Code section by
 318 a taxpayer that remains unused by such taxpayer may be applied pursuant to
 319 subparagraph (B) of this paragraph for any taxable year beginning on or after
 320 January 1, 2020, for which such credit may be carried forward pursuant to
 321 paragraph (2) of this subsection provided that within a single taxable year beginning on
 322 or after January 1, 2020, such taxpayer:

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

325 (ii) Purchases or acquires at least \$5 million of qualified investment property for
 326 manufacturing or telecommunications facilities within rural counties.

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

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

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

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

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

342 (3) In the initial year in which the taxpayer claims the credit granted in subsection (b) of
 343 this Code section, the taxpayer shall include in the description of the project required by
 344 subparagraph (A) of paragraph (1) of this subsection, information which demonstrates
 345 that the project includes the acquisition of qualified investment property having an
 346 aggregate cost in excess of ~~\$50,000.00~~ the amount required by paragraph (1) of this
 347 subsection;

348 (4) Any lease for a period of five years or longer of any real or personal property used
 349 in a new or expanded manufacturing or telecommunications facility which would
 350 otherwise constitute qualified investment property shall be treated as the purchase or
 351 acquisition of qualified investment property by the lessee. The taxpayer may treat the full

352 value of the leased property as qualified investment property in the taxable year in which
 353 the lease becomes binding on the lessor and the taxpayer if all other conditions of this
 354 subsection have been met; and

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

359 ~~(d)(1) Except as otherwise provided in paragraph (2) of this subsection, no~~ No taxpayer
 360 shall be authorized to claim on a tax return for a given project the credit provided for in this
 361 Code section if such taxpayer claims on such tax return any of the credits authorized under
 362 Code Section 48-7-40 or 48-7-40.1.

363 ~~(2) For taxable years beginning on or after January 1, 1995, and ending on or prior to~~
 364 ~~December 31, 1998, a taxpayer shall be authorized to claim on a tax return for a given~~
 365 ~~project the credit provided for in this Code section and to claim, if otherwise qualified~~
 366 ~~under Code Section 48-7-40, the tax credit applicable to tier 1 counties under Code~~
 367 ~~Section 48-7-40, subject to the following limitations:~~

368 ~~(A) Not less than 250 new full-time employee jobs must be created in the first taxable~~
 369 ~~year and maintained through the end of the third taxable year in which the taxpayer~~
 370 ~~claims both credits as authorized under this paragraph; and~~

371 ~~(B) An otherwise qualified taxpayer shall not be entitled to receive the additional tax~~
 372 ~~credit authorized under Code Section 36-62-5.1 in any taxable year in which that~~
 373 ~~taxpayer claims both of the tax credits as authorized under this paragraph."~~

374 SECTION 3-2.

375 Said article is further amended in Code Section 48-7-40.3, relating to tax credits for existing
 376 manufacturing and telecommunications facilities in tier 2 counties and conditions and
 377 limitations, by adding a new paragraph to subsection (a) and by revising subsection (c) as
 378 follows:

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

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

386 (1) In order to qualify as a basis for the credit, the investment in qualified investment
 387 property must occur no sooner than January 1, 1995. The credit may be taken beginning

388 with the tax year immediately following the tax year in which the qualified investment
 389 property having an aggregate cost in excess of \$50,000.00 is purchased or acquired by
 390 the taxpayer; provided, however, that for tax years beginning on or after January 1, 2020,
 391 the credit may only be taken beginning with the tax year immediately following the tax
 392 year in which the qualified investment property having an aggregate cost in excess of
 393 \$100,000.00 is purchased or acquired by the taxpayer. For every year in which a
 394 taxpayer claims the credit, the taxpayer shall attach a schedule to the taxpayer's Georgia
 395 income tax return which will set forth the following information, as a minimum:

- 396 (A) A description of the project;
 397 (B) The amount of qualified investment property acquired during the taxable year;
 398 (C) The amount of tax credit claimed for the taxable year;
 399 (D) The amount of qualified investment property acquired in prior taxable years;
 400 (E) Any tax credit utilized by the taxpayer in prior taxable years;
 401 (F) The amount of tax credit carried over from prior years;
 402 (G) The amount of tax credit utilized by the taxpayer in the current taxable year; and
 403 (H) The amount of tax credit to be carried over to subsequent tax years;
 404 (2)(A) Any credit claimed under this Code section but not used in any taxable year
 405 may be carried forward for ten years from the close of the taxable year in which the
 406 qualified investment property was acquired, provided that such qualified investment
 407 property remains in service.

408 (B)(i) The credit established by this Code section taken in any one taxable year shall
 409 be limited to an amount not greater than 50 percent of the taxpayer's state income tax
 410 liability which is attributable to income derived from operations in this state for that
 411 taxable year.

412 (ii) Notwithstanding division (i) of this subparagraph, for credit earned pursuant to
 413 this Code section from purchases of qualified investment property for a
 414 manufacturing or telecommunications facility in a rural county made on or after
 415 January 1, 2020, such credit shall:

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

419 (II) If the amount of such credit exceeds the limit set forth in subdivision (I) of this
 420 division, the excess may be taken as a credit of up to \$1 million for any one taxable
 421 year against such taxpayer's quarterly or monthly payments under Code
 422 Section 48-7-103, provided that such \$1 million limit shall be reduced by any
 423 amount taken by such taxpayer pursuant to subdivision (c)(2)(B)(ii)(II) of Code
 424 Section 48-7-40.2. Each employee for whom an employer receives credit against

425 such employer's quarterly or monthly payment under Code Section 48-7-103 shall
 426 receive credit against his or her income tax liability under Code Section 48-7-20 for
 427 the corresponding taxable year for the full amount which would be credited against
 428 such liability prior to the application of the credit provided for in this paragraph.
 429 Credits against quarterly or monthly payments under Code Section 48-7-103 and
 430 credits against liability under Code Section 48-7-20 established by this
 431 subparagraph shall not constitute income to the employee;

432 provided, however, that credit allowed and used pursuant to subdivision (II) of this
 433 division and pursuant to subdivision (c)(2)(B)(ii)(II) of Code Section 48-7-40.2 shall
 434 not exceed \$10 million in aggregate for all taxpayers for any calendar year. The
 435 commissioner shall establish an application process to ensure that the \$10 million
 436 aggregate maximum and the \$1 million per taxpayer maximum are not exceeded. If
 437 applications for such credit exceed \$10 million for the calendar year, the commissioner
 438 shall allow for the credit to be applied to all eligible applicants in prorated amounts
 439 among such applicants, not to exceed \$10 million for the calendar year.

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

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

447 (2.1)(A) Any credit claimed prior to January 1, 2020, pursuant to this Code section by
 448 a taxpayer that remains unused by such taxpayer may be applied pursuant to
 449 subparagraph (B) of this paragraph for any taxable year beginning on or after
 450 January 1, 2020, for which such credit may be carried forward pursuant to
 451 paragraph (2) of this subsection provided that within a single taxable year beginning on
 452 or after January 1, 2020, such taxpayer:

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

455 (ii) Purchases or acquires at least \$10 million of qualified investment property for
 456 manufacturing or telecommunications facilities within rural counties.

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

460 (C)(i) Qualified investment property purchased or acquired in connection with
 461 division (ii) of subparagraph (A) of this paragraph may be eligible for credit granted

462 under subsection (b) of this Code section, provided that the conditions for such credit
 463 are met independently of this paragraph. Any such new credit earned shall be applied
 464 as provided in paragraph (2) of this subsection.

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

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

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

472 (3) In the initial year in which the taxpayer claims the credit granted in subsection (b) of
 473 this Code section, the taxpayer shall include in the description of the project required by
 474 subparagraph (A) of paragraph (1) of this subsection information which demonstrates that
 475 the project includes the acquisition of qualified investment property having an aggregate
 476 cost in excess of ~~\$50,000.00~~ the amount required by paragraph (1) of this subsection;

477 (4) Any lease for a period of five years or longer of any real or personal property used
 478 in a new or expanded manufacturing or telecommunications facility which would
 479 otherwise constitute qualified investment property shall be treated as the purchase or
 480 acquisition of qualified investment property by the lessee. The taxpayer may treat the full
 481 value of the leased property as qualified investment property in the taxable year in which
 482 the lease becomes binding on the lessor and the taxpayer if all other conditions of this
 483 subsection have been met; and

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

488 **SECTION 3-3.**

489 Said article is further amended in Code Section 48-7-40.4, relating to tax credits for existing
 490 manufacturing and telecommunications facilities or manufacturing and telecommunications
 491 support facilities in tier 3 or 4 counties and conditions and limitations, by revising
 492 subsection (c) as follows:

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

495 (1) In order to qualify as a basis for the credit, the investment in qualified investment
 496 property must occur no sooner than January 1, 1995. The credit may be taken beginning
 497 with the tax year immediately following the tax year in which the qualified investment

498 property having an aggregate cost in excess of \$50,000.00 is purchased or acquired by
 499 the taxpayer; provided, however, that for tax years beginning on or after January 1, 2020,
 500 the credit may only be taken beginning with the tax year immediately following the tax
 501 year in which the qualified investment property having an aggregate cost in excess of
 502 \$100,000.00 is purchased or acquired by the taxpayer. For every year in which a
 503 taxpayer claims the credit, the taxpayer shall attach a schedule to the taxpayer's Georgia
 504 income tax return which will set forth the following information, as a minimum:

- 505 (A) A description of the project;
- 506 (B) The amount of qualified investment property acquired during the taxable year;
- 507 (C) The amount of tax credit claimed for the taxable year;
- 508 (D) The amount of qualified investment property acquired in prior taxable years;
- 509 (E) Any tax credit utilized by the taxpayer in prior taxable years;
- 510 (F) The amount of tax credit carried over from prior years;
- 511 (G) The amount of tax credit utilized by the taxpayer in the current taxable year; and
- 512 (H) The amount of tax credit to be carried over to subsequent tax years;
- 513 (2) Any credit claimed under this Code section but not used in any taxable year may be
 514 carried forward for ten years from the close of the taxable year in which the qualified
 515 investment property was acquired, provided that such qualified investment property
 516 remains in service. The credit established by this Code section taken in any one taxable
 517 year shall be limited to an amount not greater than 50 percent of the taxpayer's state
 518 income tax liability which is attributable to income derived from operations in this state
 519 for that taxable year. The sale, merger, acquisition, or bankruptcy of any taxpayer shall
 520 not create new eligibility in any succeeding taxpayer, but any unused credit may be
 521 transferred and continued by any transferee of the taxpayer;
- 522 (3) In the initial year in which the taxpayer claims the credit granted in subsection (b) of
 523 this Code section, the taxpayer shall include in the description of the project required by
 524 subparagraph (A) of paragraph (1) of this subsection information which demonstrates that
 525 the project includes the acquisition of qualified investment property having an aggregate
 526 cost in excess of ~~\$50,000.00~~ the amount required by paragraph (1) of this subsection;
- 527 (4) Any lease for a period of five years or longer of any real or personal property used
 528 in a new or expanded manufacturing or telecommunications facility which would
 529 otherwise constitute qualified investment property shall be treated as the purchase or
 530 acquisition of qualified investment property by the lessee. The taxpayer may treat the full
 531 value of the leased property as qualified investment property in the taxable year in which
 532 the lease becomes binding on the lessor and the taxpayer if all other conditions of this
 533 subsection have been met; and

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

538 **PART IV**

539 **SECTION 4-1.**

540 This Act shall become effective on June 1, 2019. Parts II and III of this Act shall be
541 applicable to taxable years beginning on or after January 1, 2020.

542 **SECTION 4-2.**

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