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

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

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

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

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

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

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

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

PART II

SECTION 2-1.

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

″48-7-40.17.

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

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

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

(A) Is located in this state;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~provided, however, that where~~

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

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

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

(c) Only a taxpayer that completes the creation of a qualified project in a taxable year beginning on or after January 1, 2017, shall be eligible to begin a subsequent seven-year job creation period for the qualified project, provided that the taxpayer creates 50 or more new quality jobs, at the site or sites of a qualified project or the facility or facilities resulting therefrom, above its single previous high yearly average number of new quality jobs during any prior seven-year job creation period. A subsequent seven-year job creation period is subject to all the requirements of this Code section. A taxpayer must notify the commissioner of ~~their~~ its intent to begin a subsequent seven-year job creation period. The commissioner shall provide by regulation the time in which such notification shall occur. New quality jobs generated under previous seven-year job creation periods shall continue to be eligible for the credit as provided by this Code section. No new quality jobs may be generated under previous periods of eligibility after a subsequent period of eligibility has begun. New quality jobs created in a subsequent seven-year job creation period shall not be counted as additional new quality jobs under a previous seven-year job creation period; instead those new quality jobs shall count toward the subsequent period. For purposes of determining the number of new quality jobs in a particular year that are attributable to each seven-year job creation period, the taxpayer shall begin with the first seven-year job creation period and then attribute the remainder to each subsequent seven-year job creation period from the oldest to the newest. Such attributions shall be made up to the single high yearly average number of new quality jobs for each seven-year job creation period. A taxpayer may create more than one subsequent seven-year job creation period. If at the time a taxpayer begins a subsequent seven-year job creation period, the taxpayer had a year or years in the prior seven-year job creation period where the number of new quality jobs ~~were~~ was below the single high yearly average number of new quality jobs, the taxpayer shall be allowed to make an irrevocable election to use the average number of new quality jobs for the completed years in the prior seven-year job creation period instead of the single high yearly average number of new quality jobs for all purposes of this subsection. If such election is made, the number of new quality jobs in the years subsequent to the completed years for the prior seven-year job creation period shall be deemed to not exceed the average number of new quality jobs for the completed years in the prior seven-year job creation period. New quality jobs over such average number shall be attributed to the subsequent seven-year job creation period as provided in this subsection.

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

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

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

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

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

PART III

SECTION 3-1.

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

″48-7-40.2.

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

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

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

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

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

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

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

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

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

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

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

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

(A) A description of the project;

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

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

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

(E) Any tax credit utilized by the taxpayer in prior taxable years;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3-2.

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

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

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

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

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

(A) A description of the project;

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

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

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

(E) Any tax credit utilized by the taxpayer in prior taxable years;

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

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

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

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

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

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

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

(II) If the amount of such credit exceeds the limit set forth in subdivision (I) of this division, the excess may be taken as a credit of up to $1 million for any one taxable year against such taxpayer's quarterly or monthly payments under Code Section 48-7-103, provided that such $1 million limit shall be reduced by any amount taken by such taxpayer pursuant to subdivision (c)(2)(B)(ii)(II) of Code Section 48-7-40.2. Each employee for whom an employer receives credit against such employer's quarterly or monthly payment under Code Section 48-7-103 shall receive credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount which would be credited against such liability prior to the application of the credit provided for in this paragraph. Credits against quarterly or monthly payments under Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established by this subparagraph shall not constitute income to the employee;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3-3.

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

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

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

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

(A) A description of the project;

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

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

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

(E) Any tax credit utilized by the taxpayer in prior taxable years;

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

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

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

(2) Any credit claimed under this Code section but not used in any taxable year may be carried forward for ten years from the close of the taxable year in which the qualified investment property was acquired, provided that such qualified investment property remains in service. The credit established by this Code section taken in any one taxable year shall be limited to an amount not greater than 50 percent of the taxpayer's state income tax liability which is attributable to income derived from operations in this state for that taxable year. The sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new eligibility in any succeeding taxpayer, but any unused credit may be transferred and continued by any transferee of the taxpayer;

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

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

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

PART IV

SECTION 4-1.

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

SECTION 4-2.

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