

Senate Bill 559

By: Senators Price of the 56th, Cagle of the 49th, Mullis of the 53rd, Hamrick of the 30th and Smith of the 52nd

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, and computation of income tax, so as to provide for a job tax
3 credit with respect to qualified biotechnology businesses; to provide for definitions; to
4 provide for conditions and limitations; to provide for powers, duties, and authority of the
5 state revenue commissioner with respect to the foregoing; to provide an effective date; to
6 provide for applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the
10 imposition, rate, and computation of income tax, is amended by adding a new Code section
11 immediately following Code Section 48-7-40.25, to be designated Code Section 48-7-40.26,
12 to read as follows:

13 "48-7-40.26.

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

15 (1) 'Full-time job' means employment for an individual that is located at a qualified
16 biotechnology business, has a regular work week of 30 hours or more, and has no
17 predetermined end date.

18 (2) 'Payroll withholding taxes' means the monthly or quarterly withholding payment
19 under Code Section 48-7-103.

20 (3) 'Qualified biotechnology business' means a new or existing business that:

21 (A) Uses the application of technologies, such as recombinant DNA techniques,
22 biochemistry, molecular and cellular biology, genetics and genetic engineering,
23 biological cell fusion techniques, and new bioprocesses, using living organisms or parts
24 of organisms to produce or modify products to improve plants or animals, to develop
25 microorganisms for specific uses, to identify targets for small molecule pharmaceutical
26 development, or to transform biological systems into useful processes and products;

1 (B) Is classified under North American Industry Classification System code 3254,
2 3391, 54171, or 6215;

3 (C) Receives its income from products sold, manufactured, or produced in this state or
4 from services including, but not limited to, research and development activities
5 performed in this state; and

6 (D) Elects not to receive the tax credits provided for by Code Sections 48-7-40,
7 48-7-40.1, 48-7-40.2, 48-7-40.3, 48-7-40.4, 48-7-40.7, 48-7-40.8, 48-7-40.9, and
8 48-7-40.17 for such jobs or such investment.

9 (b) A qualified biotechnology business shall be allowed a credit against payroll
10 withholding taxes. The credit shall be \$2,500.00 per job for jobs paying more than
11 \$1,250.00 weekly gross salary and \$3,000.00 per job for jobs paying more than \$1,538.00
12 weekly gross salary. The tax credit can be claimed the first taxable year in which the new
13 full-time job is created and for the four immediately succeeding taxable years. A full-time
14 job that otherwise meets the requirements of this subsection and that did not exist
15 previously within the facility in Georgia and which is transferred to the facility within
16 Georgia shall be considered a new full-time job for purposes of this subsection.

17 (c) Credits against quarterly or monthly payments under Code Section 48-7-103 by this
18 subsection shall not constitute income to the taxpayer. The credit established by this
19 subsection may be taken for the first taxable year in which the new full-time job is created
20 and for the four immediately succeeding taxable years, and the taxpayer shall thereafter be
21 ineligible for such credit; provided, however, that such new full-time jobs must be created
22 within seven years from the close of the taxable year in which the taxpayer first becomes
23 eligible for such credit. Each employee whose employer receives credit against such
24 taxpayer's quarterly or monthly payment under Code Section 48-7-103 shall receive credit
25 against his or her income tax liability under Code Section 48-7-20 for the corresponding
26 taxable year for the full amount which would be credited against such liability prior to the
27 application of the credit provided for in this subsection. Credits against quarterly or
28 monthly payments under Code Section 48-7-103 and credits against liability under Code
29 Section 48-7-20 established by this subsection shall not constitute income to the taxpayer.
30 (d) The commissioner shall be authorized to promulgate any rules and regulations
31 necessary to implement and administer the provisions of this Code section."

32 SECTION 2.

33 This Act shall become effective on January 1, 2005, and shall be applicable to all taxable
34 years beginning on or after that date.

1 **SECTION 3.**

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