

House Bill 1188

By: Representatives Byrd of the 20<sup>th</sup>, Pruett of the 144<sup>th</sup>, and Hill of the 21<sup>st</sup>

A BILL TO BE ENTITLED

AN ACT

1 To create and establish the "Georgia Science Education and Employment Development Act";  
2 to amend Code Section 48-1-2 of the Official Code of Georgia Annotated, relating to  
3 definitions for revenue and taxation, so as to provide a definition for life sciences; to amend  
4 Code Section 48-2-12 of the Official Code of Georgia Annotated, relating to the rules and  
5 regulations applicable to the Department of Revenue, so as to prohibit duplicate taxation of  
6 certain venture capital revenues that pass through payments and credits to nonresidents and  
7 have the effect of discouraging venture capital investment companies from locating in this  
8 state; to amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to  
9 income taxes, so as to provide that Georgia taxable net income of certain taxpayers shall not  
10 include income which is attributable directly to a life sciences business of any taxpayer  
11 which has been relocated from another state for the first 12 months; to provide for an  
12 exemption for certain educational grants, scholarships, gifts, or awards; to amend Article 2  
13 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the  
14 imposition, rate, and computation of income taxes, so as to provide for an income tax credit  
15 for qualified investments in research and development conducted in Georgia; to provide for  
16 a short title; to provide for legislative findings and intent; to provide for definitions; to  
17 provide for conditions and limitations; to provide for powers, duties, and authority of the  
18 state revenue commissioner with respect to the foregoing; to provide for an income tax credit  
19 for the sale of biomass materials and alternative fuels grown or produced in Georgia; to  
20 provide for a short title; to provide for conditions and limitations; to provide for powers,  
21 duties, and authority of the state revenue commissioner; to provide for a tax credit for certain  
22 employers who employ students; to provide for conditions and procedures regarding such tax  
23 credit; to define certain terms; to amend Code Section 48-13-71 of the Official Code of  
24 Georgia Annotated, relating to organizations and companies exempt from corporate net  
25 worth tax, so as to exempt life sciences corporations transferring to Georgia for the first 12  
26 months; to provide for conditions and limitations; to provide for definitions; to provide an  
27 effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

1 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

2 **SECTION 1.**

3 This Act shall be known and may be cited as the "Georgia Science Education and  
4 Employment Development Act of 2008."

5 **SECTION 2.**

6 Code Section 48-1-2 of the Official Code of Georgia Annotated, relating to definitions for  
7 revenue and taxation is amended by renumbering paragraphs (16) through (26) as paragraphs  
8 (17) through (27) respectively, and adding a new paragraph (16) to read as follows:

9 "(16) 'Life sciences' means research, development, and commercialization directly related  
10 to the use of compositions, methods, and organisms in cellular and molecular research,  
11 development, and manufacturing processes in areas such as pharmaceuticals, agriculture,  
12 homeland security, medical therapeutics, medical diagnostics, medical devices, veterinary  
13 medicine, plant biology, and microbiology; development and qualitative improvement  
14 in the areas of medical sciences, pharmaceutical sciences, environmental protection,  
15 biological sciences, zoology, botany, horticulture, ecology, toxicology, organic  
16 chemistry, physical chemistry, and physiology; and technological developments in the  
17 areas of molecular biology, genomics, proteomics, physiomics, nanotechnology,  
18 biodefense, biocomputing, bioinformatics, and other developments associated with  
19 biotechnology."

20 **SECTION 3.**

21 Code Section 48-2-12 of the Official Code of Georgia Annotated, relating to the rules and  
22 regulations applicable to the Department of Revenue, is amended by adding a new subsection  
23 to read as follows:

24 "(e) The commissioner shall not be authorized to provide by rule and regulation for the  
25 taxation of any pass through or intermediary funding or payments conducted by any  
26 individual, business, corporation, or other entity in this state whether in the form of a cash  
27 payment, a periodic or special distribution, distribution of other property, a credit to an  
28 individual or entity in lieu of such payment, or an individual's or entity's distributive  
29 share of income or other gain that is passed through, distributed, or credited to any  
30 nonresident partnership, business corporation, or individual. Any such rule or regulation  
31 to the contrary shall be null and void."

**SECTION 4.**

Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes is amended in subsection (a) of Code Section 48-7-27 of the Official Code of Georgia Annotated, relating to computation of taxable net income, by replacing "; and" at the end of paragraph (14) with a semicolon, replacing the period at the end of paragraph (15) with "; and", and adding a new paragraph to read as follows:

"(16) The amount of funds paid to a taxpayer in the form of educational grants, scholarships, or other educational funding gifts or awards where such funds were expended for the purpose of attending any educational course offered by a university or college in Georgia to the extent that such amount was included in the taxpayer's federal adjusted gross income."

**SECTION 5.**

Said chapter is further amended by striking subsection (e), which is reserved, and adding a new subsection (e) at the end of Code Section 48-7-27, relating to computation of taxable net income, to read as follows:

"(e) Georgia taxable net income shall not include any income of a taxpayer which is attributable directly to a life sciences business of the taxpayer which has relocated its primary place of business or business headquarters from another state or foreign state to the State of Georgia. The exclusion provided for under this subsection shall commence on the date that the business is relocated to Georgia and begins operations and shall continue for the ensuing 12 months or until such date that the business transfers its primary place of business or business headquarters from Georgia or otherwise ceases business operations in Georgia, whichever shall first occur. A life sciences business enterprise planning or undergoing a qualified business transfer to Georgia shall be eligible to make application to the commissioner for the income tax exemption. The department shall be authorized to determine eligibility for the income tax exemption ensuring that a business is a life sciences business and has transferred its business to this state."

**SECTION 6.**

Said chapter is further amended by adding a new subsection (f) at the end of Code Section 48-7-31, relating to taxation of corporations, to read as follows:

"(f) Georgia taxable net income of a corporation shall not include any income of such corporation which is attributable directly to the business of the corporation which has been relocated from another state or foreign state to the State of Georgia where such corporation is a life sciences corporation. The exclusion provided for under this subsection shall commence on the date that the corporation is relocated to Georgia and begins operations

1 and shall continue for the ensuing 12 months or until such date that the corporation  
 2 transfers its primary place of business or corporate headquarters from Georgia or otherwise  
 3 ceases corporate operations in Georgia, whichever shall first occur. A life sciences  
 4 corporation planning or undergoing a qualified business transfer to Georgia shall be  
 5 eligible to make application to the commissioner for the income tax exemption. The  
 6 department shall be authorized to determine eligibility for the income tax exemption  
 7 ensuring that a corporation is a life sciences corporation and has transferred a corporation  
 8 to this state."

9 **SECTION 7.**

10 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the  
 11 imposition, rate, and computation of income taxes, is amended by adding new Code sections  
 12 to read as follows:

13 "48-7-40.27.

14 (a) This Code section shall be known and may be cited as the 'Georgia Research and  
 15 Development Investor Tax Credit.'

16 (b) The legislature finds that the welfare of this state is enhanced by the research and  
 17 development of new discoveries in Georgia and that the eventual commercialization of  
 18 Georgia research and development in a healthy entrepreneurial business environment  
 19 creates jobs and strengthens Georgia's economy. Ready sources of capital necessary to  
 20 support research and development are not currently available in the State of Georgia. This  
 21 Code section is enacted for the purpose of facilitating the availability of equity investment  
 22 in Georgia research and commercial development to expand Georgia's economy by  
 23 enlarging its base of wealth, creating businesses, and supporting the efforts of Georgia  
 24 researchers and educators.

25 (c) As used in this Code section, the term 'qualified investment' means a contribution of  
 26 cash or a cash equivalent for the purpose of the research and development of innovative  
 27 devices and discoveries by individuals, universities, colleges, or businesses, both private  
 28 and public; provided, however, that a qualified investment shall only qualify for the credit  
 29 provided by this Code section if such research and development is conducted in Georgia  
 30 and is based upon reasonable and accepted scientific methods and practices. Qualified  
 31 investments may be secured or unsecured and may be made at risk of loss or made as a gift,  
 32 grant, or scholarship. Qualified investment also means a contribution of a cash or cash  
 33 equivalent by a pass through or intermediary entity domiciled in the State of Georgia.

34 (d) There shall be allowed to each person or entity making a qualified investment who is  
 35 subject to the taxes imposed by this chapter a tax credit that shall be deductible from the  
 36 investor's net income tax liability, if any, for the taxable year in which the investment was

1 made in an amount of 50 percent of the qualified investment made by the taxpayer in each  
2 qualified investment.

3 (e) In the event that the total amount of the tax credit under this Code section for a taxable  
4 year exceeds the taxpayer's income tax liability, any unused tax credit shall be allowed the  
5 taxpayer against the next two succeeding years' tax liabilities. No such tax credit shall be  
6 allowed the taxpayer against prior years' tax liabilities.

7 (f) The commissioner shall be authorized to promulgate any rules and regulations  
8 necessary to implement and administer the provisions of this Code section.

9 48-7-40.28.

10 (a) This Code section shall be known and may be cited as the 'Biofuel Tax Credit.'

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

12 (1) 'Alternative fuel facility' means any facility located in this state which is primarily  
13 dedicated to the production, processing, and sale of ethanol, biodiesel, butanol, and their  
14 by-products.

15 (2) 'Biomass materials' means any agricultural product or animal waste or by-product  
16 grown or produced in Georgia that is used in or for the production and processing of  
17 ethanol, biodiesel, butanol, and their by-products, including agricultural products, forestry  
18 products, animal fat by-products, or the wastes of such products.

19 (c) There shall be allowed to each person or entity who sells qualified biomass material  
20 or alternative fuels produced in a qualified alternative fuel facility and who is subject to the  
21 taxes imposed by this chapter a tax credit in the amount of 10 percent of the sale.

22 (d) In the event that the total amount of the tax credit under this Code section for a taxable  
23 year exceeds the taxpayer's income tax liability, any unused tax credit shall be allowed the  
24 taxpayer against the next two succeeding years' tax liabilities. No such tax credit shall be  
25 allowed the taxpayer against prior years tax liabilities.

26 (e) The commissioner shall promulgate any rules and regulations necessary to implement  
27 and administer this Code section."

28 **SECTION 8.**

29 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to  
30 imposition and rate of income taxes, is amended by adding a new Code section to read as  
31 follows:

32 "48-7-43.

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

1 (1) 'Employer' means any employer upon whom an income tax is imposed by this  
 2 chapter; provided, however, that a significant component of the employer's business must  
 3 include scientific research, development, or invention.

4 (2) 'Employment' means any job, whether part time or full time, or any internship  
 5 program whereby educational credit is provided by the student's educational institution,  
 6 which job or internship includes the application of scientific methods.

7 (3) 'Student' means a person under the age of 25 years who has been enrolled in a public  
 8 or private postsecondary or high school educational institution in this state during the  
 9 previous nine months, who is in good standing for continued enrollment, and who, during  
 10 the taxable year, remained enrolled in an educational institution for a minimum of nine  
 11 months and while enrolled has attempted at least 15 quarter hours or 12 semester hours.

12 (b) A tax credit against the tax imposed by this chapter shall be granted to an employer  
 13 who first provides employment for a student on or after April 15, 2008. The amount of the  
 14 tax credit shall be 100 percent of the wages paid to any such student; provided, however,  
 15 that such tax credit may not exceed \$25,000.00 per student.

16 (c) The tax credit granted under this Code section shall not exceed the amount of the  
 17 employer's income tax liability for the taxable year as computed without regard to this  
 18 Code section. Any such excess tax credit may be carried over and claimed during the  
 19 five-year period after the taxable year for which the tax credit is claimed until such tax  
 20 credit is exhausted. No such tax credit shall be allowed the taxpayer against prior years'  
 21 tax liabilities.

22 (d) To be eligible to claim the tax credit granted under this Code section, the employer  
 23 shall certify to the department the name of the employed student; include a letter from the  
 24 student's educational institution evidencing that such student has attempted the requisite  
 25 number of quarter or semester hours during the taxable year; provide written evidence of  
 26 the student's wages, which may include, but not be limited to, copies of the student's W-2  
 27 forms prepared by or for the employer; and furnish such other information as may be  
 28 required by the department to ensure that tax credits are only granted to employers who  
 29 provide employment for bona fide students pursuant to this Code section. The department  
 30 shall adopt rules and regulations and forms to implement this tax credit program."

### 31 **SECTION 9.**

32 Code Section 48-13-71 of the Official Code of Georgia Annotated, relating to organizations  
 33 and companies exempt from corporate net worth tax, is amended by striking "and" at the end  
 34 of paragraph (1), striking the period and inserting "; and" at the end of paragraph (2), and  
 35 adding a new paragraph to read as follows:

1 "(3) Any life sciences organization, business, corporation, or company that has transferred  
2 its primary business operations or headquarters from another state or foreign state to the  
3 State of Georgia for the first 12 months of operation in Georgia, as determined by the  
4 department."

5 **SECTION 10.**

6 This Act shall become effective January 1, 2009, and shall be applicable to all taxable years  
7 beginning on or after January 1, 2009.

8 **SECTION 11.**

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