

The Senate Finance Committee offered the following substitute to HB 1023:

A BILL TO BE ENTITLED
AN ACT

1 To enact the Jobs, Opportunity, and Business Success Act of 2010; to amend and enact
2 provisions intended to provide for tax relief, to encourage employment opportunities and
3 business stimulation, and to provide temporary revenue support for hospitals and nonprofit
4 health care clinics; to provide for a short title; to amend Chapter 8 of Title 31 of the Official
5 Code of Georgia Annotated, relating to the care and protection of indigent and elderly
6 patients, so as to provide for a payment to be imposed on hospitals to be used to obtain
7 federal financial participation for medical assistance payments under Medicaid; to provide
8 for definitions; to establish a segregated account within the Indigent Care Trust Fund; to
9 provide for a method for calculating and collecting the provider payment; to authorize
10 inspection of hospital records; to provide for penalties; to recommend withholding of
11 Medicaid payments equal to amounts owed; to provide for the collection of payments; to
12 provide for the appropriation of funds in the segregated account; to provide for application
13 of the "Georgia Medical Assistance Act of 1977"; to provide for automatic repeal; to amend
14 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
15 so as to provide that, for a period of time, employers who hire persons receiving employment
16 security benefits shall be entitled to a credit against employer contributions; to amend Title
17 48 of the Official Code of Georgia Annotated, the "Georgia Public Revenue Code," so as to
18 provide that a portion of net long-term capital gains shall be excluded from state taxable
19 income of corporations and individuals; to provide for an income tax credit for certain
20 qualified business investments for a limited period of time; to provide for legislative findings
21 and intent; to provide for definitions; to provide for procedures, conditions, and limitations;
22 to provide for powers, duties, and authority of the state revenue commissioner with respect
23 to the foregoing; to provide for an exemption from state sales and use tax only for a limited
24 period of time regarding the sale or use of tangible personal property to certain nonprofit
25 health centers; to provide for an exemption for a limited period of time regarding sales to
26 certain nonprofit volunteer health clinics; to extend the sunset or termination date of the
27 exemption for certain qualified nonprofit job training organizations; to eliminate the
28 corporate net worth tax; to provide for the effect of such elimination on liabilities and

29 eligibilities; to provide that such elimination shall not abate or affect prosecutions,
 30 punishments, penalties, administrative proceedings or remedies, or civil actions related to
 31 certain violations; to provide for other related matters; to provide for effective dates; to repeal
 32 conflicting laws; and for other purposes.

33 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

34 **SECTION 1.**

35 (a) This Act shall be known and may be cited as the "Jobs, Opportunity, and Business
 36 Success Act of 2010."

37 (b) The General Assembly intends through the enactment of this Act, during this time of
 38 economic decline, to stimulate the state's economy overall by providing for tax relief,
 39 encouraging employment opportunities and business stimulation, and providing revenue
 40 support for hospitals and nonprofit health care clinics.

41 **SECTION 2.**

42 Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to the care and
 43 protection of indigent and elderly patients, is amended by adding a new article to read as
 44 follows:

45 "ARTICLE 6C

46 31-8-179.

47 This article is enacted pursuant to the authority of Article III, Section IX, Paragraph VI(i)
 48 of the Constitution.

49 31-8-179.1.

50 As used in this article, the term:

51 (1) 'Department' means the Department of Revenue.

52 (2) 'Hospital' means an institution licensed pursuant to Chapter 7 of this title which is
 53 primarily engaged in providing to inpatients, by or under the supervision of physicians,
 54 diagnostic services and therapeutic services for medical diagnosis, treatment, and care of
 55 injured, disabled, or sick persons or rehabilitation services for the rehabilitation of
 56 injured, disabled, or sick persons. Such term includes public, private, rehabilitative,
 57 geriatric, osteopathic, and other specialty hospitals but shall not include psychiatric
 58 hospitals as defined in paragraph (7) of Code Section 37-3-1, critical access hospitals as
 59 defined in paragraph (3) of Code Section 33-21A-2, or any state owned or state operated
 60 hospitals.

61 (3) 'Net patient revenue' means the total gross patient revenue of a hospital less
62 contractual adjustments; charity care; bad debt; Hill-Burton commitments; and indigent
63 care as defined by and calculated in the Department of Community Health's annual
64 hospital financial survey.

65 (4) 'Provider payment' means the payment imposed pursuant to this article for the
66 privilege of operating a hospital.

67 (5) 'Segregated account' means an account for the dedication and deposit of provider
68 payments which is established within the Indigent Care Trust Fund created pursuant to
69 Code Section 31-8-152.

70 (6) 'Trust fund' means the Indigent Care Trust Fund created pursuant to Code Section
71 31-8-152.

72 31-8-179.2.

73 There is established within the trust fund a segregated account for revenues raised through
74 the imposition of the provider payment. All revenues raised through provider payments
75 from hospitals shall be credited to the segregated account within the trust fund. All funds
76 shall be invested in the same manner as authorized for investing other moneys in the state
77 treasury. Contributions and transfers to the trust fund pursuant to Code Sections 31-8-153
78 and 31-8-153.1 shall not be deposited into the segregated account.

79 31-8-179.3.

80 (a) Each hospital shall be assessed a provider payment, assessed uniformly upon all
81 hospitals, in the amount of 1.45 percent of the net patient revenue of the hospital; provided,
82 however, that hospitals with a designated trauma center, as defined in paragraph (1) of
83 Code Section 31-11-100, shall be assessed a provider payment in the amount of 1.38
84 percent of the net patient revenue of the hospital.

85 (b) The provider payment shall be paid quarterly by each hospital to the department. The
86 assessment shall be based on the Department of Community Health's annual hospital
87 financial survey. Payment of the provider payment shall be due at end of each calendar
88 quarter; the first payment shall be due on September 30.

89 (c) The amount of provider payment paid by a hospital under this article shall be credited
90 by the Department of Community Health toward any indigent or charity care commitment
91 imposed by the Department of Community Health on such hospital as a condition of the
92 grant of a certificate of need pursuant to subsection (c) of Code Section 31-6-40.1 and
93 reported pursuant to Code Section 31-6-70.

94 31-8-179.4.

95 (a) The department shall collect the provider payments imposed pursuant to Code Section
96 31-8-179.3. All revenues raised pursuant to this article shall be deposited into the
97 segregated account. Such funds shall be dedicated and used for the sole purpose of
98 obtaining federal financial participation for medical assistance payments to providers on
99 behalf of Medicaid recipients pursuant to Article 7 of Chapter 4 of Title 49.

100 (b) The department shall prepare and distribute a form upon which each hospital shall
101 submit information to comply with this article.

102 (c) Each hospital shall keep and preserve for a period of three years such books and
103 records as may be necessary to determine the amount for which it is liable under this
104 article. The department shall have the authority to inspect and copy the records of a
105 hospital for purposes of auditing the calculation of the provider payment. All information
106 obtained by the department pursuant to this article shall be confidential and shall not
107 constitute a public record.

108 (d) In the event the department determines that a hospital has underpaid or overpaid the
109 provider payment, the department shall notify the hospital of the balance of the provider
110 payment or refund that is due. Such payment or refund shall be due within 30 days of the
111 department's notice.

112 (e) Any hospital that fails to pay the provider payment pursuant to this article within the
113 time required by this article shall pay, in addition to the outstanding provider payment, a
114 6 percent penalty for each month or fraction thereof that the payment is overdue. If a
115 provider payment has not been received by the department by the last day of the month, the
116 department shall recommend that the Department of Community Health withhold an
117 amount equal to the provider payment and penalty owed from any medical assistance
118 payment due such hospital under the Medicaid program. The provider payment levied by
119 this article shall constitute a debt due the state and may be collected by civil action and the
120 filing of tax liens in addition to such methods provided for in this article. Any penalty that
121 accrues pursuant to this subsection shall be credited to the segregated account.

122 31-8-179.5.

123 (a) Notwithstanding any other provision of this chapter, the General Assembly is
124 authorized to appropriate as state funds to the Department of Community Health for use
125 in any fiscal year all revenues dedicated and deposited into the segregated account. Such
126 appropriations shall be made for the sole purpose of obtaining federal financial
127 participation for medical assistance payments to providers on behalf of Medicaid recipients
128 pursuant to Article 7 of Chapter 4 of Title 49. Any appropriation from the segregated
129 account for any purpose other than such medical assistance payments shall be void.

130 (b) Revenues appropriated to the Department of Community Health pursuant to this Code
 131 section shall be used to match federal funds that are available for the purpose for which
 132 such trust funds have been appropriated.

133 (c) Appropriations from the segregated account to the Department of Community Health
 134 shall not lapse to the general fund at the end of the fiscal year.

135 31-8-179.6.

136 The Department of Community Health shall report annually to the General Assembly on
 137 its use of revenues deposited into the segregated account and appropriated to the
 138 Department of Community Health pursuant to this article.

139 31-8-179.7.

140 Except where inconsistent with this article, the provisions of Article 7 of Chapter 4 of Title
 141 49, the 'Georgia Medical Assistance Act of 1977,' shall apply to the department and the
 142 Department of Community Health in carrying out the purposes of this article.

143 31-8-179.8.

144 This article shall stand repealed on June 30, 2013."

145 **SECTION 3.**

146 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
 147 is amended by revising Code Section 34-8-156, relating to the State-wide Reserve Ratio and
 148 reduction in tax rate, by adding a new subsection to read as follows:

149 "(g)(1) The Commissioner shall make an expedited request within 15 days of the
 150 effective date of this Act for a determination by the United States secretary of labor that
 151 implementation of paragraph (3) of this subsection is in conformity with federal law. If
 152 the United States secretary of labor determines that paragraph (3) of this subsection is not
 153 in conformity with federal law and cannot be adjusted procedurally by the Commissioner
 154 pursuant to Code Section 34-8-93 pending action of the General Assembly to bring about
 155 conformity with federal law, paragraph (3) of this subsection shall not become effective.
 156 Upon such determination the Commissioner shall take all necessary steps to obtain a
 157 waiver of conformity with federal law from the United States secretary of labor. If such
 158 waiver is granted, paragraph (3) of this subsection shall become effective immediately
 159 upon the granting of the waiver. If the United States secretary of labor determines that
 160 paragraph (3) of this subsection could be implemented in conformity with federal law if
 161 procedurally adjusted by the Commissioner, the Commissioner shall exercise the
 162 authority granted under Code Section 34-8-93 to make such adjustments and paragraph

163 (3) of this subsection shall become effective immediately following such adjustment. If
164 the United States secretary of labor determines that paragraph (3) of this subsection is in
165 conformity with federal law, paragraph (3) of this subsection shall become effective
166 immediately upon such determination.

167 (2) In the event paragraph (3) of this subsection becomes effective, it shall not be
168 implemented unless the Commissioner determines that the employer contribution and
169 reimbursement liability shall not increase as a result of such implementation.

170 (3) If this paragraph becomes effective, for calendar quarters beginning on or after
171 July 1, 2010, there shall be a credit to be known as the Georgia Works Tax Credit. The
172 amount of the credit shall be not less than \$25.00 and not more than \$125.00 per
173 individual employee per calendar quarter, as further described in this paragraph. The
174 determination of the amount of the credit, within the permissible range, shall be made and
175 periodically revised by the Commissioner based on the Commissioner's evaluation of
176 conditions in the Georgia labor market, the state of the economy, and the State-wide
177 Reserve Ratio. The credit may be claimed by an employer for up to four calendar
178 quarters for each individual hired by that employer for services to be performed in this
179 state under the following conditions:

180 (A) Such individual:

181 (i) Has filed a claim for unemployment compensation in this state and is currently
182 receiving weekly unemployment compensation benefits on that claim under the
183 provisions of Article 7 of this chapter and such benefits are chargeable to the
184 experience rating account of an employer under Code Section 34-8-157;

185 (ii) Has been profiled by the department as likely to exhaust benefits;

186 (iii) Has no return-to-work date or promise of future employment; and

187 (iv) Has at least eight weeks of benefit eligibility remaining on his or her current
188 claim at the time the employer hires the individual;

189 (B) The credit for each such hired individual per calendar quarter may be claimed on
190 the reports required to be filed under Code Section 34-8-165 as a reduction from
191 amounts otherwise due in each of the four calendar quarters immediately following the
192 hire date of the individual; provided, however, that the credit may not be claimed for
193 any individual who has been hired more than once by the employer claiming the credit
194 or for more than four calendar quarters for that one hiring;

195 (C) For each calendar quarter for which the credit is claimed, such individual shall be
196 continuously employed by the employer claiming the credit, and such individual's
197 employment with that employer shall consist of at least 30 hours per week during each
198 week of that calendar quarter;

199 (D) The credit shall be timely claimed for the calendar quarter to which the credit is
 200 applicable, and in no event later than the last day of the reporting month following the
 201 end of the calendar quarter to which the credit is applicable. The credit shall not be
 202 refundable. The credit cannot reduce tax liability below zero; provided, however, that
 203 the credit, if properly and timely claimed, may be carried forward and applied against
 204 contributions due in any subsequent calendar quarter in the same calendar year as
 205 claimed. Any unused credit remaining at the end of a calendar year shall not be carried
 206 forward to another calendar year and shall be deemed to have expired; and
 207 (E) No credit shall be claimed or taken by any employer who fails to timely file any
 208 report or to timely pay all amounts otherwise due for all calendar quarters during the
 209 calendar year for which the credit is claimed. In the event an employer has claimed a
 210 credit under this Code section and fails to timely file any report or to timely pay all
 211 amounts otherwise due during the year the credit is claimed, the amount of any credits
 212 claimed for that calendar year shall be canceled and become delinquent as of the date
 213 originally due under Code Section 34-8-165 and subject to all the provisions of this
 214 article as if no credit had ever been available or claimed."

215 **SECTION 4.**

216 Title 48 of the Official Code of Georgia Annotated, the "Georgia Public Revenue Code," is
 217 amended in Code Section 48-7-21, relating to taxation of corporations, by adding at the end
 218 of subsection (b) a new paragraph (17) to read as follows:

219 "(17)(A) For the taxable year beginning on or after January 1 of the calendar year
 220 immediately following the state fiscal year in which the revenue shortfall reserve is
 221 funded at the level of \$500 million or more as certified to the commissioner in writing
 222 by the state auditor, and prior to January 1 of the next succeeding taxable year, there
 223 shall be subtracted from taxable income an amount equal to 25 percent of the excess of
 224 the net long-term capital gain, over the net short-term capital loss included in Georgia
 225 taxable net income.

226 (B) For all taxable years beginning on or after January 1 of the taxable year next
 227 succeeding the taxable year specified in subparagraph (A) of this paragraph, there shall
 228 be subtracted from taxable income an amount equal to 50 percent of the excess of the
 229 net long-term capital gain, over the net short-term capital loss included in Georgia
 230 taxable net income.

231 (C) For purposes of this paragraph, the terms 'net long-term capital gain' and 'net
 232 short-term capital loss' shall mean the same as defined in Section 1222 of the Internal
 233 Revenue Code."

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SECTION 5.

Said title is further amended in subsection (a) of Code Section 48-7-27, relating to computation of taxable net income of individuals, by deleting "and" at the end of paragraph (14); replacing the period at the end of paragraph (15) with "; and"; and adding a new paragraph (16) to read as follows:

"(16)(A) For the taxable year beginning on or after January 1 of the calendar year immediately following the state fiscal year in which the revenue shortfall reserve is funded at the level of \$500 million or more as certified to the commissioner in writing by the state auditor, and prior to January 1 of the next succeeding taxable year, an amount equal to 25 percent of the excess of the net long-term capital gain, over the net short-term capital loss included in Georgia taxable net income.

(B) For all taxable years beginning on or after January 1 of the taxable year next succeeding the taxable year specified in subparagraph (A) of this paragraph, an amount equal to 50 percent of the excess of the net long-term capital gain, over the net short-term capital loss included in Georgia taxable net income.

(C) For purposes of this paragraph, the terms 'net long-term capital gain' and 'net short-term capital loss' shall mean the same as defined in Section 1222 of the Internal Revenue Code."

SECTION 6.

Said title is further amended by adding a new Code section to read as follows:

"48-7-40.29.

(a) The General Assembly finds that entrepreneurial businesses significantly contribute to the economy of the state. The intent of this Code section is to achieve the following:

(1) To encourage individual investors to invest in early stage, innovative, wealth-creating businesses;

(2) To enlarge the number of high quality, high paying jobs within the state both to attract qualified individuals to move to and work within this state and to retain young people educated in Georgia's universities and colleges;

(3) To expand the economy of Georgia by enlarging its base of wealth-creating businesses; and

(4) To support businesses seeking to commercialize technology invented in Georgia's universities and colleges.

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

(1) 'Allowable credit' means the credit as it may be reduced pursuant to subparagraph (3) of subsection (i) of this Code section.

- 269 (2) 'Headquarters' means the principal central administrative office of a business located
270 in this state which conducts significant operations of such business.
- 271 (3) 'Net income tax liability' means income tax liability reduced by all other credits
272 allowed under this chapter.
- 273 (4) 'Pass-through entity' means a partnership, an S-corporation, or a limited liability
274 company taxed as a partnership.
- 275 (5) 'Professional services' means those services specified in paragraph (2) of Code
276 Section 14-7-2 or any service which requires as a condition precedent to the rendering of
277 such service the obtaining of a license from a state licensing board pursuant to Title 43.
- 278 (6) 'Qualified business' means a registered business that:
- 279 (A) Is either a corporation, limited liability company, or a general or limited
280 partnership located in this state;
- 281 (B) Was organized no more than three years before the qualified investment was made;
- 282 (C) Has its headquarters located in this state at the time the investment was made and
283 has maintained such headquarters for the entire time the qualified business benefitted
284 from the tax credit provided for pursuant to this Code section;
- 285 (D) Employs 20 or fewer people in this state at the time it is registered as a qualified
286 business;
- 287 (E) Has had in any complete fiscal year before registration gross annual revenue as
288 determined in accordance with the Internal Revenue Code of \$500,000.00 or less on a
289 consolidated basis;
- 290 (F) Has not obtained during its existence more than \$1 million in aggregate gross cash
291 proceeds from the issuance of its equity or debt investments, not including commercial
292 loans from chartered banking or savings and loan institutions;
- 293 (G) Has not utilized the tax credit described in Code Section 48-7-40.26;
- 294 (H) Is primarily engaged in manufacturing, processing, online and digital warehousing,
295 online and digital wholesaling, software development, information technology services,
296 research and development, or a business providing services other than those described
297 in subparagraph (I) of this paragraph; and
- 298 (I) Does not engage substantially in:
- 299 (i) Retail sales;
- 300 (ii) Real estate or construction;
- 301 (iii) Professional services;
- 302 (iv) Gambling;
- 303 (v) Natural resource extraction;
- 304 (vi) Financial, brokerage, or investment activities or insurance; or

305 (vii) Entertainment, amusement, recreation, or athletic or fitness activity for which
306 an admission or membership is charged.

307 A business shall be substantially engaged in one of the above activities if its gross
308 revenue from such activity exceeds 25 percent of its gross revenues in any fiscal year or
309 it is established pursuant to its articles of incorporation, articles of organization, operating
310 agreement or similar organizational documents to engage as one of its primary purposes
311 such activity.

312 (7) 'Qualified investment' means an investment by a qualified investor of cash in a
313 qualified business for common or preferred stock or an equity interest or a purchase for
314 cash of qualified subordinated debt in a qualified business; provided, however, that funds
315 constituting a qualified investment cannot have been raised or be raised as a result of
316 other tax incentive programs. Furthermore, no investment of common or preferred stock
317 or an equity interest or purchase of subordinated debt shall qualify as a qualified
318 investment if a broker fee or commission or a similar remuneration is paid or given
319 directly or indirectly for soliciting such investment or purchase.

320 (8) 'Qualified investor' means an accredited investor as that term is defined by the United
321 States Securities and Exchange Commission who is:

322 (A) An individual person who is a resident of this state or a nonresident who is
323 obligated to pay taxes imposed by this chapter; or

324 (B) A pass-through entity which is formed for investment purposes, has no business
325 operations, has committed capital under management of equal to or less than \$5 million,
326 and is not capitalized with funds raised or pooled through private placement
327 memoranda directed to institutional investors. A venture capital fund or commodity
328 fund with institutional investors or a hedge fund shall not qualify as a qualified investor.

329 (9) 'Qualified subordinated debt' means indebtedness that is not secured, that may or may
330 not be convertible into common or preferred stock or other equity interest, and that is
331 subordinated in payment to all other indebtedness of the qualified business issued or to
332 be issued for money borrowed and no part of which has a maturity date less than five
333 years after the date such indebtedness was purchased.

334 (10) 'Registered' or 'registration' means that a business has been certified by the
335 commissioner as a qualified business at the time of application to the commissioner.

336 (c) A qualified business shall register with the commissioner for purposes of this Code
337 section. Approval of such registration shall constitute certification by the commissioner
338 for 12 months after being issued. A business shall be permitted to renew its registration
339 with the commissioner so long as, at the time of renewal, the business remains a qualified
340 business.

341 (d) Any individual person making a qualified investment directly in a qualified business
342 in the 2011, 2012, or 2013 calendar year shall be allowed a tax credit of 20 percent of the
343 amount invested against the tax imposed by this chapter commencing on January 1 of the
344 second year following the year in which the qualified investment was made as provided in
345 this Code section.

346 (e) Any pass-through entity making a qualified investment directly in a qualified business
347 in the 2011, 2012, or 2013 calendar year shall be allowed a tax credit of 20 percent of the
348 amount invested against the tax imposed by this chapter commencing on January 1 of the
349 second year following the year in which the qualified investment was made as provided in
350 this Code section. Each individual who is a shareholder, partner, or member of an entity
351 shall be allocated the credit allowed the pass-through entity in an amount determined in the
352 same manner as the proportionate shares of income or loss of such pass-through entity
353 would be determined. If an individual's share of the pass-through entity's credit is limited
354 due to the maximum allowable credit under this Code section for a taxable year, the
355 pass-through entity and its owners may not reallocate the unused credit among the other
356 owners.

357 (f) Tax credits claimed pursuant to this Code section shall be subject to the following
358 conditions and limitations:

359 (1) The qualified investor is not eligible for the credit for the taxable year in which the
360 qualified investment is made but shall be eligible for the credit for the second taxable
361 year beginning after the qualified investment is made as provided in subsection (d) or (e)
362 of this Code section;

363 (2) The aggregate amount of credit allowed an individual for one or more qualified
364 investments in a single taxable year under this Code section, whether made directly or by
365 a pass-through entity and allocated to such individual, shall not exceed \$30,000.00;

366 (3) In no event shall the amount of the tax credit allowed an individual under this Code
367 section for a taxable year exceed such individual's net income tax liability. Any unused
368 credit amount shall be allowed to be carried forward for five years from the close of the
369 taxable year in which the qualified investment was made. No such credit shall be allowed
370 against prior years' tax liability;

371 (4) The qualified investor's basis in the common or preferred stock, equity interest, or
372 subordinated debt acquired as a result of the qualified investment shall be reduced for
373 purposes of this chapter by the amount of the allowable credit;

374 (5) The credit shall not be transferrable by the qualified investor except to the heirs and
375 legatees of the qualified investor upon his or her death and to his or her spouse or incident
376 to divorce; and

377 (6) To be eligible for the credit provided in this Code section, the qualified investor must
378 file an application for the credit with the commissioner on or before June 30 of the year
379 following the calendar year in which the qualified investment was made.

380 (g) The registration of a business as a qualified business shall be subject to the following
381 conditions and limitations:

382 (1) If the commissioner finds that any of the information contained in an application of
383 a business for registration under this Code section is false, the commissioner shall revoke
384 the registration of such business. The commissioner shall not revoke the registration of
385 a business solely because it ceases business operations for an indefinite period of time,
386 as long as the business renews its registration;

387 (2) A registration as a qualified business may not be sold or otherwise transferred, except
388 that, if a qualified business enters into a merger, conversion, consolidation, or other
389 similar transaction with another business and the surviving company would otherwise
390 meet the criteria for being a qualified business, the surviving company retains the
391 registration for the 12 month registration period without further application to the
392 commissioner. In such a case, the qualified business must provide the commissioner with
393 written notice of the merger, conversion, consolidation, or similar transaction and such
394 other information as required by the commissioner; and

395 (3) The commissioner shall report to the House Committee on Ways and Means and the
396 Senate Finance Committee each year all of the businesses that have registered with the
397 commissioner as a qualified business. The report shall include the name and address of
398 each business, the location of its headquarters, a description of the types of business in
399 which it engages, the number of jobs created by the business during the period covered
400 by the report, and the average wages paid by these jobs.

401 (h) Any credit claimed under this Code section shall be recaptured in the following
402 situations and shall be subject to the following conditions and limitations:

403 (1) If within two years after the qualified investment was made, the qualified investor
404 transfers any of the securities or subordinated debt received in the qualified investment
405 to another person or entity, other than a transfer resulting from one of the following:

406 (A) The death of the qualified investor;

407 (B) A transfer to the spouse of the qualified investor or incident to divorce; or

408 (C) A merger, conversion, consolidation, sale of the qualified business's assets, or
409 similar transaction requiring approval by the owners of the qualified business under
410 applicable law, to the extent the qualified investor does not receive cash or tangible
411 property in such merger, conversion, consolidation, sale, or other similar transaction;

412 (2) Except as provided in paragraph (1) of this subsection, if within five years after the
413 qualified investment was made, the qualified business makes a redemption with respect
414 to the securities received or pays any principal of the subordinated debt;

415 (3) If within two years after the qualified investment was made, the qualified investor
416 participates in the operation of the qualified business. For the purpose of this paragraph,
417 a qualified investor participates in the operation of a qualified business if the qualified
418 investor, or the qualified investor's spouse, parent, sibling, or child, or a business
419 controlled by any of these individuals, provides services of any nature to the qualified
420 business for compensation, whether as an employee, a contractor, or otherwise.
421 However, a person who provides uncompensated professional advice to a qualified
422 business whether as an officer, a member of the board of directors or managers or
423 otherwise or participates in a stock or membership option or stock or membership plan,
424 or both, shall be eligible for the credit;

425 (4) The amount of the credit recaptured shall apply only to the qualified investment in
426 the particular qualified business in which the investment was made;

427 (5) The amount of the recaptured tax credit determined under this subsection shall be
428 added to the qualified investor's income tax liability for the taxable year in which the
429 recapture occurs under this subsection; and

430 (6) In the event the credit is recaptured because the qualified business ceases business
431 operations, dissolves, or liquidates, the qualified investor may claim either the credit
432 authorized under this Code section or any capital loss the qualified investor otherwise
433 would be able to claim regarding that qualified business, but shall not be authorized to
434 claim and be allowed both.

435 (i)(1) A qualified investor seeking to claim a tax credit provided for under this Code
436 section must submit an application to the commissioner for tentative approval of such tax
437 credit between September 1 and October 31 of the year for which the tax credit is claimed
438 or allowed. The commissioner shall promulgate the rules and forms on which the
439 application is to be submitted. Amounts specified on such application shall not be
440 changed by the qualified investor after the application is approved by the commissioner.
441 The commissioner shall review such application and shall tentatively approve such
442 application upon determining that it meets the requirements of this Code section.

443 (2) The commissioner shall provide tentative approval of the applications by the date
444 provided in paragraph (3) of this subsection as follows:

445 (A) The total aggregate amount of all tax credits allowed to qualified investors or
446 pass-through entities for investments made in the 2011 calendar year and claimed and
447 allowed in the 2013 taxable year shall not exceed \$10 million in such year;

- 448 (B) The total aggregate amount of all tax credits allowed to qualified investors or
 449 pass-through entities for investments made in the 2012 calendar year and claimed and
 450 allowed in the 2014 taxable year shall not exceed \$10 million in such year; and
 451 (C) The total aggregate amount of all tax credits allowed to qualified investors or
 452 pass-through entities for investments made in the 2013 calendar year and claimed and
 453 allowed in the 2015 taxable year shall not exceed \$10 million in such year.
- 454 (3) The commissioner shall notify each qualified investor of the tax credits tentatively
 455 approved and allocated to such qualified investor by December 31 of the year in which
 456 the application was submitted. In the event that the credit amounts on the tax credit
 457 applications filed with the commissioner exceed the maximum aggregate limit of tax
 458 credits under this subsection, then the tax credits shall be allocated among the qualified
 459 investors who filed a timely application on a pro rata basis based upon the amounts
 460 otherwise allowed by this Code section. Once the tax credit application has been
 461 approved and the amount approved has been communicated to the applicant, the qualified
 462 investor may then apply the amount of the approved tax credit to its tax liability for the
 463 tax year for which the approved application applies.
- 464 (j) The commissioner shall promulgate any rules and regulations necessary to implement
 465 and administer this Code section."

466 **SECTION 7.**

467 Said title is further amended in Code Section 48-8-3, relating to exemptions from state sales
 468 and use tax, by revising subparagraph (A) of paragraph (7.05) as follows:

469 "(7.05)(A) For the period commencing on July 1, ~~2008~~ 2010, and ending on June 30,
 470 ~~2010~~ 2012, sales of tangible personal property to a nonprofit health center in this state
 471 which has been established under the authority of and is receiving funds pursuant to the
 472 United States Public Health Service Act, 42 U. S. C. Section 254b if such health clinic
 473 obtains an exemption determination letter from the commissioner."

474 **SECTION 8.**

475 Said title is further amended in said Code section by revising paragraph (7.3) as follows:

476 "(7.3) For the period commencing July 1, ~~2008~~ 2010, and ending June 30, ~~2010~~ 2012,
 477 sales of tangible personal property and services to a nonprofit volunteer health clinic
 478 which primarily treats indigent persons with incomes below 200 percent of the federal
 479 poverty level and which property and services are used exclusively by such volunteer
 480 health clinic in performing a general treatment function in this state when such volunteer
 481 health clinic is a tax exempt organization under the Internal Revenue Code and obtains
 482 an exemption determination letter from the commissioner;"

483

SECTION 9.

484

Said title is further amended in said Code section in paragraph (85) by revising subparagraph

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(E) as follows:

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"(E) This paragraph shall stand repealed in its entirety on July 1, ~~2010~~ 2012;"

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SECTION 10.

488

Said title is further amended by revising Article 4 of Chapter 13, relating to the corporate net

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worth tax, in its entirety as follows:

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ARTICLE 4

491

48-13-70.

492

(a) For net worth taxable years beginning on or after January 1, 2012, there shall be no

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corporate net worth taxes whatsoever levied or collected under this article and no corporate

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net worth returns are required.

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(b) Tax, penalty, and interest liabilities and refund eligibility for prior net worth taxable

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years shall not be affected by the enactment of this revised article and shall continue to be

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governed by the provisions of this article as it existed immediately prior to January 1, 2012.

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(c) The revision of this article pursuant to this Code section shall not abate any

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prosecution, punishment, penalty, administrative proceedings or remedies, or civil action

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related to any violation of law committed prior to January 1, 2012."

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SECTION 11.

502

(a) Except as otherwise provided in subsection (b) of this section, this Act shall become

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effective upon its approval by the Governor or upon its becoming law without such

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approval.

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(b)(1) Sections 2, 7, 8, and 9 of this Act shall become effective on July 1, 2010.

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(2) Section 10 of this Act shall become effective on January 1, 2012.

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SECTION 12.

508

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