

House Bill 384

By: Representatives Collins of the 27th, Carter of the 175th, Stephens of the 164th, and Huckaby of the 113th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 36-62-5.1 of the Official Code of Georgia Annotated, relating to
2 provisions for joint authorities as development authorities for local government, so as to
3 modify the amount of job tax credit that may be received; to amend Article 2 of Chapter 7
4 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate, and
5 computation, and exemptions for income taxes, so as to provide for a comprehensive revision
6 of investment tax credits for manufacturing, telecommunications, and recycling
7 manufacturing facilities; to provide for related matters; to provide an effective date; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Code Section 36-62-5.1 of the Official Code of Georgia Annotated, relating to provisions for
12 joint authorities as development authorities for local government, is amended by revising
13 paragraph (2) of subsection (e) as follows:

14 "(2) A business enterprise as defined under subsection (a) of Code Section 48-7-40
15 located within the jurisdiction of a joint authority established by two or more contiguous
16 counties shall qualify for an additional \$500.00 tax credit for each new full-time
17 employee position created. The \$500.00 job tax credit authorized by this paragraph shall
18 be subject to all the conditions and limitations specified under Code Section 48-7-40, as
19 amended; provided, however, that a business enterprise located in a county that belongs
20 to more than one joint authority shall not qualify for an additional tax credit in excess of
21 ~~\$500.00~~ \$250.00 for each new full-time employee position created."

22 SECTION 2.

23 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
24 imposition, rate, computation, and exemptions for income taxes, is amended by striking Code

25 Section 48-7-40, relating to designation of counties as less developed areas and tax credits
26 for certain business enterprises, and inserting a new Code section to read as follows:

27 "48-7-40.

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

29 (1) 'Business enterprise' means any business of any nature or the headquarters of any
30 such business. Such term shall not include retail businesses.

31 (2) 'Competitive project' means expansion or location of some or all of a business
32 enterprise's operations in this state having significant regional impact where the
33 commissioner of economic development certifies that but for some or all of the tax
34 incentives provided in this Code section, the business enterprise would have located or
35 expanded outside this state.

36 (3) 'Existing business enterprise' means any business enterprise which has operated for
37 the immediately preceding three years a facility in this state. Such term shall not include
38 retail businesses.

39 (4) 'New full-time job' means a newly created position of employment that was not
40 previously located in this state, requires a minimum of 35 hours a week, and pays at or
41 above the average wage earned in the county with the lowest average wage earned in this
42 state, as reported in the most recently available annual issue of the Georgia Employment
43 and Wages Averages Report of the Department of Labor.

44 (b) A business enterprise that creates or relocates a new full-time job in this state which
45 elects not to receive tax credits provided for in Code Sections 48-7-40.7, 48-7-40.8,
46 48-7-40.9, 48-7-40.17, and 48-7-40.24, for such job or for investments created by, arising
47 from, related to, or connected in any way with the same project for which such job was
48 created, shall be allowed a tax credit for taxes imposed under this article equal to \$1,750.00
49 annually per eligible new full-time job for five years beginning with the first taxable year
50 in which the new full-time job is created and for the four immediately succeeding taxable
51 years.

52 (c) The number of new full-time jobs shall be determined by comparing the monthly
53 average number of full-time employees subject to state income tax withholding for the
54 taxable year with the corresponding period of the prior taxable year. In order to qualify for
55 a credit under this Code section, the employer must make health insurance coverage
56 available to the employee filling the new full-time job; provided, however, that nothing in
57 this paragraph shall be construed to require the employer to pay for all or any part of health
58 insurance coverage for such employee in order to claim the credit if such employer does
59 not pay for all or any part of health insurance coverage for other full-time employees.

60 (d) A business enterprise shall qualify for an additional one time tax credit of \$500.00 for
61 each new full-time job created if such business enterprise is:

- 62 (1) Located in an area designated as less developed pursuant to Code Section 48-7-40.1;
63 (2) Located within a county designated as a tier 1 county pursuant to Code Section
64 48-7-40.3; or
65 (3) An existing business enterprise.

66 The tax credit provided for in this subsection shall apply to the tax year in which the new
67 full-time job was created.

68 (e) In the case of a business enterprise engaged in a competitive project, if the amount of
69 the credit provided in this paragraph exceeds such business enterprise's liability for taxes
70 imposed under this article in a taxable year, the excess may be taken as a credit against
71 such business enterprise's quarterly or monthly payment under Code Section 48-7-103 but
72 not to exceed in any one taxable year \$2,500 for each new full-time job when aggregated
73 with the credit applied against taxes under this article. Each employee whose employer
74 receives credit against such business enterprise's quarterly or monthly payment under Code
75 Section 48-7-103 shall receive credit against his or her income tax liability under Code
76 Section 48-7-20 for the corresponding taxable year for the full amount which would be
77 credited against such liability prior to the application of the credit provided for in this
78 paragraph. Credits against quarterly or monthly payments under Code Section 48-7-103
79 and credits against liability under Code Section 48-7-20 established by this paragraph shall
80 not constitute income to the taxpayer.

81 (f) Tax credits for five years for the taxes imposed under this article shall be awarded for
82 additional new full-time jobs created by business enterprises qualified under this Code
83 section. Additional new full-time jobs shall be determined by subtracting the highest total
84 employment of the business enterprise during years two through five, or whatever portion
85 of years two through five which has been completed, from the total increased employment.
86 The state revenue commissioner shall adjust the credit allowed in the event of employment
87 fluctuations during the five years of credit.

88 (g) The sale, merger, acquisition, or bankruptcy of any business enterprise shall not create
89 new eligibility in any succeeding business entity, but any unused job tax credit may be
90 transferred and continued by any transferee of the business enterprise. The commissioner
91 of community affairs shall determine whether or not qualifying net increases or decreases
92 have occurred and may require reports, promulgate regulations, and hold hearings as
93 needed for substantiation and qualification.

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

97 (i) Notwithstanding Code Section 48-2-35, any tax credit claimed under this Code section
98 shall be claimed within one year of the earlier of the date the original tax return was filed

99 or the date such return was due as prescribed in subsection (a) of Code Section 48-7-56,
 100 including any approved extensions.

101 (j) The commissioner may require such reports, promulgate such regulations, and gather
 102 such relevant data necessary and advisable for the evaluation of the job tax credits
 103 established by this Code section.

104 (k) Taxpayers that initially claimed the credit under this Code section for any taxable year
 105 beginning before January 1, 2011, shall be governed, for purposes of all such credits
 106 claimed as well as any credits claimed in subsequent taxable years related to such initial
 107 claim, by this Code section as it was in effect for the taxable year in which the taxpayer
 108 made such initial claim. Unless the Governor has received a favorable report from the
 109 department of economic development, no credits under this Code section shall be allowed
 110 for qualified new full-time jobs created after January 1, 2020; provided, however, that
 111 credits earned under this Code section for qualified new full-time jobs created prior to
 112 January 1, 2020, may be claimed after January 1, 2020."

113 **SECTION 3.**

114 Said article is further amended by striking Code Section 48-7-40.1, relating to tax credits for
 115 business enterprises in less developed areas, and inserting a new Code section to read as
 116 follows:

117 "48-7-40.1.

118 (a) As used in this Code section, the term 'less developed area' means any area designated
 119 by the commissioner of community affairs pursuant to this Code section.

120 (b) Not later than December 31 of each year, using the most current data available from
 121 the Department of Labor and the United States Department of Commerce, the
 122 commissioner of community affairs shall rank and designate as less developed areas the
 123 areas which are comprised of ten or more contiguous census tracts in this state using a
 124 combination of the following equally weighted factors:

125 (1) Highest unemployment rate for the most recent 36 month period;

126 (2) Lowest per capita income for the most recent 36 month period; and

127 (3) Highest percentage of residents whose income is below the poverty level according
 128 to the most recent data available.

129 (c) The commissioner of community affairs also shall be authorized to include in the
 130 designation provided for in subsection (b) of this Code section:

131 (1) Any area comprised of ten or more contiguous census tracts which, in the opinion of
 132 the commissioner of community affairs, undergoes a sudden and severe period of
 133 economic distress caused by the closing of one or more business enterprises located in
 134 such area;

135 (2) Any area comprised of one or more census tracts adjacent to a federal military
 136 installation where pervasive poverty is evidenced by a 15 percent poverty rate or greater
 137 as reflected in the most recent decennial census;
 138 (3) Any area comprised of one or more contiguous census tracts which, in the opinion
 139 of the commissioner of community affairs, is or will be adversely impacted by the loss
 140 of one or more jobs, businesses, or residences as a result of an airport expansion,
 141 including noise buy-outs, or the closing of a business enterprise which, in the opinion of
 142 the commissioner of community affairs, results or will result in a sudden and severe
 143 period of economic distress; or
 144 (4) Any area which is within or adjacent to one or more contiguous census block groups
 145 with a poverty rate of 15 percent or greater as determined from data in the most current
 146 United States decennial census, where the area is also included within a state enterprise
 147 zone pursuant to Chapter 88 of Title 36 or where a redevelopment plan has been adopted
 148 pursuant to Chapter 61 of Title 36 and which, in the opinion of the commissioner of
 149 community affairs, displays pervasive poverty, underdevelopment, general distress, and
 150 blight.
 151 No designation made pursuant to this subsection shall operate to displace or remove any
 152 other area previously designated as a less developed area. Notwithstanding any provision
 153 of this Code section to the contrary, in areas designated as suffering from pervasive poverty
 154 under this subsection, job tax credits shall be allowed as provided in this Code section, in
 155 addition to business enterprises, to any lawful business."

156 **SECTION 4.**

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

160 "48-7-40.2.

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

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

166 (2) 'Qualified investment property' means all real and personal property purchased or
 167 acquired by a taxpayer for use in the construction of ~~an additional~~ a manufacturing or,
 168 telecommunications, or recycling manufacturing facility to be located in this state or the
 169 expansion of an existing manufacturing ~~or,~~ telecommunications, or recycling
 170 manufacturing facility located in this state, including, but not limited to, amounts

171 expended on land acquisition, improvements, buildings, building improvements, and
 172 machinery and equipment to be used in the manufacturing ~~or~~, telecommunications, or
 173 recycling manufacturing facility. The department shall promulgate rules defining eligible
 174 manufacturing facilities, telecommunications facilities, recycling manufacturing facilities,
 175 and qualified investment property pursuant to this paragraph.

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

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

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

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

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

207 manufacturing, telecommunications, support facility in this state shall be allowed a credit
 208 against the tax imposed under this article:

209 (1) Equal to 1 percent of the cost of all qualified investment property purchased or
 210 acquired by the taxpayer when the taxpayer undertakes a project which includes the
 211 acquisition of qualified investment property having an aggregate cost of at least
 212 \$1,000,000.00 in qualified investment property, but not more than \$14,999,999.00 in
 213 qualified investment property;

214 (2) Equal to 3 percent of the cost of all qualified investment property purchased or
 215 acquired by the taxpayer when the taxpayer undertakes a project which includes the
 216 acquisition of qualified investment property having an aggregate cost of at least
 217 \$15,000,000.00 in qualified investment property, but not more than \$49,999,999.00 in
 218 qualified investment property;

219 (3) Equal to 5 percent of the cost of all qualified investment property purchased or
 220 acquired by the taxpayer when the taxpayer undertakes a project which includes the
 221 acquisition of qualified investment property having an aggregate cost of at least
 222 \$50,000,000.00 in qualified investment property, but not more than \$99,999,999.00 in
 223 qualified investment property;

224 (4) Equal to 7 percent of the cost of all qualified investment property purchased or
 225 acquired by the taxpayer when the taxpayer undertakes a project which includes the
 226 acquisition of qualified investment property having an aggregate cost of at least
 227 \$100,000,000.00 in qualified investment property, but not more than \$199,999,999.00 in
 228 qualified investment property;

229 (5) Equal to 8 percent of the cost of all qualified investment property purchased or
 230 acquired by the taxpayer when the taxpayer undertakes a project which includes the
 231 acquisition of qualified investment property having an aggregate cost of at least
 232 \$200,000,000.00 in qualified investment property;

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

235 (1) In order to qualify as a basis for the credit, the investment in qualified investment
 236 property must occur no sooner than January 1, ~~1995~~ 2011. The credit may be taken
 237 beginning with the tax year immediately following the tax year in which the qualified
 238 investment property having an aggregate cost in excess of \$50,000.00 is purchased or
 239 acquired by the taxpayer. For every year in which a taxpayer claims the credit, the
 240 taxpayer shall attach a schedule to the taxpayer's Georgia income tax return which will
 241 set forth the following information, as a minimum:

242 (A) A description of the project;

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

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

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

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

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

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

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

250 (2) Any credit claimed under this Code section but not used in any taxable year may be

251 carried forward for ten years from the close of the taxable year in which the qualified

252 investment property was acquired, provided that such qualified investment property

253 remains in service. The credit established by this Code section taken in any one taxable

254 year shall be limited to an amount not greater than 50 percent of the taxpayer's state

255 income tax liability which is attributable to income derived from operations in this state

256 for that taxable year. The sale, merger, acquisition, or bankruptcy of any taxpayer shall

257 not create new eligibility in any succeeding taxpayer, but any unused credit may be

258 transferred and continued by any transferee of the taxpayer;

259 (3) In the initial year in which the taxpayer claims the credit granted in subsection (b) of

260 this Code section, the taxpayer shall include in the description of the project required by

261 subparagraph (A) of paragraph (1) of this subsection information which demonstrates that

262 the project includes the acquisition of qualified investment property having an aggregate

263 cost in excess of \$50,000.00;

264 (4) Any lease for a period of five years or longer of any real or personal property used

265 in a new or expanded manufacturing or telecommunications facility which would

266 otherwise constitute qualified investment property shall be treated as the purchase or

267 acquisition of qualified investment property by the lessee. The taxpayer may treat the full

268 value of the leased property as qualified investment property in the taxable year in which

269 the lease becomes binding on the lessor and the taxpayer if all other conditions of this

270 subsection have been met; and

271 (5) The utilization of the credit granted in subsection (b) of this Code section shall have

272 no effect on the taxpayer's ability to claim depreciation for tax purposes on the assets

273 acquired by the taxpayer, nor shall the credit have any effect on the taxpayer's basis in

274 such assets for the purpose of depreciation.

275 ~~(d)(1) Except as otherwise provided in paragraph (2) of this subsection, no~~ No taxpayer

276 shall be authorized to claim on a tax return for a given project the credit provided for in

277 this Code section if such taxpayer claims on such tax return any of the credits authorized

278 under Code Section 48-7-40 ~~or 48-7-40.1, 48-7-40.7, 48-7-40.8, 48-7-40.9, 48-7-40.17,~~

279 or 48-7-40.24.

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

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

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

291 (e) Taxpayers that initially claimed the credit under this Code section for any taxable year
 292 beginning before January 1, 2011, shall be governed, for purposes of all such credits
 293 claimed as well as any credits claimed in subsequent taxable years related to such initial
 294 claim, by this Code section as it was in effect for the taxable year in which the taxpayer
 295 made such initial claim. Unless the Governor has received a favorable report from the
 296 department of economic development, no credits under this Code section shall be allowed
 297 for qualified investments made after January 1, 2020; provided, however, credits related
 298 to qualified investments made prior to January 1, 2020 may be claimed after January 1,
 299 2020."

300 SECTION 5.

301 Said article is further amended by striking Code Section 48-7-40.3, relating to tax credits for
 302 existing manufacturing and telecommunications facilities in tier 2 counties and conditions
 303 and limitations, and inserting a new Code section to read as follows:

304 "48-7-40.3.

305 (a)(1) Not later than December 31 of each year, using the most current data available
 306 from the Department of Labor and the United States Department of Commerce, the
 307 commissioner of community affairs shall rank and designate all 159 counties in this state
 308 using a combination of the following equally weighted factors:

309 (A) Highest unemployment rate for the most recent 36 month period;

310 (B) Lowest per capita income for the most recent 36 month period; and

311 (C) Highest percentage of residents whose incomes are below the poverty level
 312 according to the most recent data available.

313 (2) Counties ranked and designated as the first through seventy-first least developed
 314 counties shall be classified as tier 1, counties ranked and designated as the
 315 seventy-second through one hundred sixth least developed counties shall be classified as

316 tier 2, counties ranked and designated as the one hundred seventh through one hundred
 317 forty-first least developed counties shall be classified as tier 3, and counties ranked and
 318 designated as the one hundred forty-second through one hundred fifty-ninth least
 319 developed counties shall be classified as tier 4.

320 (b) The commissioner of community affairs shall be authorized to include in the tier 2
 321 designation provided for in subsection (b) of this Code section any tier 3 county which, in
 322 the opinion of the commissioner of community affairs, undergoes a sudden and severe
 323 period of economic distress caused by the closing of one or more business enterprises
 324 located in such county. No designation made pursuant to this subsection shall operate to
 325 displace or remove any other county previously designated as a tier 2 county.

326 (c) The commissioner of community affairs shall be authorized to include in the tier 1
 327 designation provided for in subsection (b) of this Code section any tier 2 county which, in
 328 the opinion of the commissioner of community affairs, undergoes a sudden and severe
 329 period of economic distress caused by the closing of one or more business enterprises
 330 located in such county. No designation made pursuant to this subsection shall operate to
 331 displace or remove any other county previously designated as a tier 1 county.

332 (d) For business enterprises which plan a significant expansion in their labor forces, the
 333 commissioner of community affairs shall prescribe redesignation procedures to ensure that
 334 the business enterprises can claim credits in future years without regard to whether or not
 335 a particular county is reclassified in a different tier."

336 **SECTION 6.**

337 Said article is further amended by revising Code Section 48-7-40.17, relating to establishing
 338 or relocating headquarters and tax credit, as follows:

339 "48-7-40.17.

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

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

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

345 (A) Is located in this state;

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

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

349 (D) Pays at or above 110 percent of the average wage of the county in which it is
 350 located; ~~and~~

351 ~~(E) Has no predetermined end date.~~

352 (b) A taxpayer establishing new quality jobs in this state or relocating quality jobs into this
 353 state which elects not to receive the tax credits provided for by Code Sections 48-7-40,
 354 ~~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
 355 jobs and investments created by, arising from, related to, or connected in any way with the
 356 same project and, within one year of the first date on which the taxpayer pursuant to the
 357 provisions of Code Section 48-7-101 withholds wages for employees in this state and
 358 employs at least ~~50~~ 15 persons in new quality jobs in this state, five persons in new quality
 359 jobs in less developed areas designated pursuant to Code section 48-7-40.1, or 5 persons
 360 in new quality jobs in tier 1 counties designated pursuant to Code Section 48-7-40.3, shall
 361 be allowed a credit for taxes imposed under this article:

362 (1) Equal to ~~\$2,500.00~~ \$3,000.00 annually per eligible new quality job where the job
 363 pays 110 percent or more but less than 120 percent of the average wage of the county in
 364 which the new quality job is located;

365 (2) Equal to ~~\$3,000.00~~ \$3,500.00 annually per eligible new quality job where the job
 366 pays 120 percent or more but less than 150 percent of the average wage of the county in
 367 which the new quality job is located;

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

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

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

377 provided, however, that where the amount of such credit exceeds a taxpayer's liability for
 378 such taxes in a taxable year, the excess may be taken as a credit against such taxpayer's
 379 quarterly or monthly payment under Code Section 48-7-103 but not to exceed in any one
 380 taxable year the credit amounts in paragraphs (1) through (5) of this subsection for each
 381 new quality job when aggregated with the credit applied against taxes under this article.
 382 Each employee whose employer receives credit against such taxpayer's quarterly or
 383 monthly payment under Code Section 48-7-103 shall receive a credit against his or her
 384 income tax liability under Code Section 48-7-20 for the corresponding taxable year for the
 385 full amount which would be credited against such liability prior to the application of the
 386 credit provided for in this subsection. Credits against quarterly or monthly payments under
 387 Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established
 388 by this subsection shall not constitute income to the taxpayer. For each new quality job

389 created, the credit established by this subsection may be taken for the first taxable year in
390 which the new quality job is created and for the four immediately succeeding taxable years;
391 provided, however, that such new quality jobs must be created within seven years from the
392 close of the taxable year in which the taxpayer first becomes eligible for such credit. Credit
393 shall not be allowed during a year if the net employment increase falls below the ~~50~~ 15 new
394 quality jobs required. Any credit received for years prior to the year in which the net
395 employment increase falls below the ~~50~~ 15 new quality jobs required shall not be affected
396 except as provided in subsection (f) of this Code section. The commissioner shall adjust
397 the credit allowed each year for net new employment fluctuations above the ~~50~~ 15 new
398 quality jobs required.

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

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

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

410 (f) If the taxpayer has failed to maintain a new quality job in a taxable year, the taxpayer
411 shall forfeit the right to the credit claimed for such job in that year. For each year such new
412 quality job is not maintained, a taxpayer that forfeits such right is therefore liable for all
413 past taxes imposed by this article for that taxable year and all past payments under Code
414 Section 48-7-103 for that taxable year that were foregone by the state as a result of the
415 credits provided by this Code section; provided, however, that Code Section 48-2-40 shall
416 not apply to any such forfeiture.

417 (g) Taxpayers that initially claimed the credit under this Code section for any taxable year
418 beginning before January 1, ~~2009~~ 2011, shall be governed, for purposes of all such credits
419 claimed as well as any credits claimed in subsequent taxable years related to such initial
420 claim, by this Code section as it was in effect for the taxable year in which the taxpayer
421 made such initial claim. Unless the Governor has received a favorable report from the
422 department of economic development, no credits under this code section shall be allowed
423 for qualified new full-time jobs created after January 1, 2020; provided, however, credits
424 related to qualified new full-time jobs created prior to January 1, 2020, may be claimed
425 after January 1, 2020.

426 (h) The commissioner shall promulgate any rules and regulations necessary to implement
427 and administer this Code section."

428 **SECTION 7.**

429 This Act shall become effective upon its approval by the Governor or upon its becoming law
430 without such approval.

431 **SECTION 8.**

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