

House Bill 318 (AS PASSED HOUSE AND SENATE)

By: Representatives Stephens of the 164th, Hatchett of the 150th, Coomer of the 14th, Battles of the 15th, Dempsey of the 13th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 10 of Title 10 of the Official Code of Georgia Annotated, relating to the
2 Seed-Capital Fund, so as to create the Invest Georgia Fund; to provide for legislative
3 findings; to provide for definitions; to provide for a fund administrator; to provide for
4 reports; to provide for conditions, procedures, and limitations; to amend Code Section
5 48-7-40.30 of the Official Code of Georgia Annotated, relating to an income tax credit for
6 certain qualified investments for a limited period of time, so as to extend such income tax
7 credit; to amend Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to
8 exemptions from sales and use taxes, so as to provide a sales tax exemption for materials to
9 be used in certain construction projects of zoological institutions; to amend Article 6 of
10 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to the "Georgia
11 Tourism Development Act," so as to revise certain definitions; to provide for procedures,
12 conditions, and limitations; to provide for related matters; to provide for an effective date;
13 to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 style="text-align:center">**SECTION 1.**

16 Chapter 10 of Title 10 of the Official Code of Georgia Annotated, relating to the
17 Seed-Capital Fund, is amended by designating Code Sections 10-10-1 through 10-10-7 as
18 Article 1.

19 style="text-align:center">**SECTION 2.**

20 Said chapter is further amended by revising Code Section 10-10-1, relating to definitions, as
21 follows:

22 "10-10-1.

23 As used in this ~~chapter~~ article, the term:

24 (1) 'Board' means the Board of Regents of the University System of Georgia.

25 (2) 'Center' means the Advanced Technology Development Center created by the board
26 and acknowledged and empowered to administer the fund by Article III, Section IX,
27 Paragraph VI(g) of the Constitution of Georgia.

28 (3) 'Enterprise' means a corporation, partnership, limited liability company, or other legal
29 entity that has its principal place of business in this state and that is engaged in an
30 entrepreneurial business, including, but not limited to, tenants of incubators. For the
31 purposes of this ~~chapter~~ article, an enterprise shall not be considered to be engaged in an
32 entrepreneurial business unless it is engaged in innovative work in the areas of
33 technology, bioscience, manufacturing, marketing, agriculture, or information related
34 ventures that will increase the state's share of domestic or international markets. An
35 enterprise engaged primarily in business of a mercantile nature shall not be considered
36 engaged in an entrepreneurial business. An enterprise shall be required to be young, as
37 determined by the center.

38 (4) 'Equity contribution' means:

39 (A) Moneys from the fund used to make direct investments by the state in qualified
40 securities of enterprises; and

41 (B) The capital of an investment entity contributed by the fund, as created in Code
42 Section 10-10-3, and contributed by other investors, which capital shall be used by the
43 investment entity to make investments in qualified securities of one or more enterprises
44 as provided by this ~~chapter~~ article and to pay the expenses of the investment entity but
45 shall not include any current or accumulated income of the investment entity.

46 (5) 'Fund' means the Seed-Capital Fund created in Code Section 10-10-3.

47 (6) 'Incubator' means a facility that leases small units of space to tenants and which
48 maintains or provides access to business development services for use by the tenants or
49 member firms.

50 (7) 'Investment entity' means a limited partnership, a limited liability company, or other
51 legal entity, including, without limitation, any such entity as to which the state is the sole
52 limited liability owner, providing limited liability to its owners that is formed to receive,
53 in part, an investment by the fund or an equity return of investment from a fund loan and
54 for which a general partner or manager manages the equity contributions by making
55 investments in qualified securities of one or more enterprises or, in the case of an
56 investment entity as to which the state is the sole limited liability owner, in another
57 investment entity, as permitted by this ~~chapter~~ article and by paying the expenses of the
58 investment entity.

59 (8) 'Loan' means an advance of money from the fund to an enterprise or an investment
60 entity on such terms as the center shall set, including, but not limited to, an absolute
61 promise to repay the principal amount of the loan made by the recipient enterprise, and

62 any return on investment that the center may require as a term or condition of the loan,
 63 which may include, but not be limited to, simple or compound interest or any form of
 64 equity participation.

65 (9) 'Qualified security' means any note, stock, treasury stock bond, debenture, evidence
 66 of indebtedness, certificate of interest or participation in any profit-sharing agreement,
 67 preorganization certificate or subscription, transferable share, investment contract,
 68 certificate of deposit for a security, certificate of interest or participation in a patent or
 69 application therefor or in royalty or other payments under such a patent or application,
 70 or, in general, any interest or instrument commonly known as a security or any certificate
 71 for, receipt for, guarantee of, or option, warrant, or right to subscribe to or purchase any
 72 of the foregoing of an enterprise.

73 (10) 'State' means the State of Georgia."

74 **SECTION 3.**

75 Said chapter is further amended by revising Code Section 10-10-3, relating to moneys in the
 76 fund to be handled in accordance with policies authorized by the board, as follows:

77 "10-10-3.

78 (a) The fund is created as a separate fund maintained by the board or a body designated
 79 by the board and shall be expended only as provided in this ~~chapter~~ article. Pending their
 80 use as equity contributions or as loans, the moneys in the fund may be invested and
 81 reinvested in accordance with the investment policies authorized by the board or its
 82 designee. The entire cost of administration of the fund, including expenses of the center
 83 incurred in connection with the creation, operation, management, liquidation, and
 84 investment of fund moneys in enterprises, directly or through investment entities, may be
 85 paid from the assets of the fund. All moneys appropriated to or otherwise paid into the
 86 fund shall be presumptively concluded to have been committed to the purpose for which
 87 they have been appropriated or paid and shall not lapse.

88 (b) The fund shall consist of all moneys authorized by law for deposit in the fund,
 89 including, but not limited to, gifts, grants, private donations, and funds by government
 90 entities authorized to provide funding for the purposes authorized for use of the fund and
 91 any payments or returns on investments made by the center.

92 (c) In return for equity contributions by the fund, at the discretion of the center, the state
 93 ~~will~~ shall receive either direct ownership of qualified securities of an enterprise or a limited
 94 liability ownership in an investment entity either directly or indirectly through an
 95 investment entity as to which the state is the sole limited liability owner as permitted in
 96 subsection (c) of Code Section 10-10-4 with rights accruing from investments in qualified
 97 securities by the investment entity. With respect to loans made from the fund, the state

98 shall receive repayment of the loan in accordance with its terms, with cash proceeds or
 99 other assets from such repayments being deposited in or held through the fund. Additional
 100 returns to the state ~~will~~ shall be secured through the establishment and growth of innovative
 101 enterprises that create new, value added products, processes, and services and encourage
 102 growth and diversification in the economy of the state.

103 (d) Disbursements from the fund shall be made upon the instruction of the center director
 104 in accordance with the policies of the board.

105 (e) The center, subject to the approval of the board or its designee, shall be authorized to
 106 contract and have contracts and other legal documents prepared to carry out the provisions
 107 of this ~~chapter~~ article.

108 (f) The board shall have the authority to issue policies governing the management and
 109 operation of the fund as needed."

110 **SECTION 4.**

111 Said chapter is further amended by revising Code Section 10-10-6, relating to distribution
 112 to be deposited in the fund, as follows:

113 "10-10-6.

114 All distributions made by an investment entity allocable to the state's limited partner
 115 interest or membership interest therein; all cash proceeds with respect to any loan, whether
 116 interest, the repayment of principal, or other amounts; or proceeds of the sale or transfer
 117 of qualified securities held directly by the fund shall be deposited in the fund for future
 118 investment in other investment entities, in other qualified securities of enterprises, for
 119 making loans as provided in this ~~chapter~~ article, or to pay the cost of administration of the
 120 fund as provided in this ~~chapter~~ article."

121 **SECTION 5.**

122 Said chapter is further amended by adding a new article to read as follows:

123 "ARTICLE 2

124 10-10-10.

125 Pursuant to the authority granted in Article III, Section IX, Paragraph VI(g) of the
 126 Constitution, there is hereby created the Invest Georgia Fund as a distinct component of
 127 the Seed-Capital Fund. The General Assembly declares that its purpose in creating the
 128 Invest Georgia Fund and enacting this legislation is to increase the amount of private
 129 investment capital available in this state for Georgia based business enterprises in the seed,
 130 early, or growth stages of business development and which require funding, as well as for

131 established Georgia based business enterprises developing new methods or technologies,
 132 including the promotion of research and development purposes, thereby increasing
 133 employment, creating additional wealth, and otherwise benefitting the economic welfare
 134 of the people of this state. Accordingly, it is the intention of the General Assembly that the
 135 Invest Georgia Fund make investments in support of Georgia based business enterprises
 136 in accordance with the investment policy authorized and required under this article and
 137 focus its investment policy principally on venture capital funds and private equity
 138 organizations that invest in Georgia based business enterprises.

139 10-10-11.

140 As used in this article, the term:

141 (1) 'Affiliate' means:

142 (A) A person who, directly or indirectly, beneficially owns, controls, or holds power
 143 to vote any outstanding voting securities or other voting ownership interests of a
 144 venture capital firm; or

145 (B) A person whose outstanding voting securities or other voting ownership interests
 146 are directly or indirectly beneficially owned, controlled, or held with power to vote by
 147 a venture capital firm.

148 (2) 'Board' means the Invest Georgia Board created under Code Section 10-10-12.

149 (3) 'Center' means the Advanced Technology Development Center.

150 (4) 'Contributed capital' means the amount of money contributed to the Invest Georgia
 151 Fund by any authorized method.

152 (5) 'Designated capital' means the amount of money committed and invested by the
 153 Invest Georgia Fund into individual early stage venture capital funds or growth stage
 154 venture capital funds.

155 (6) 'Early stage venture capital fund' means:

156 (A) A fund that has at least one principal employed to direct the investment of the
 157 designated capital;

158 (B) A fund whose principals have at least five years of experience in the venture
 159 capital, angel capital, or private equity sector by investing primarily in Georgia
 160 domiciled companies or a fund whose managers have been based, as defined by having
 161 an office, in the State of Georgia;

162 (C) At the discretion of the fund administrator and the board, one or more early stage
 163 venture capital funds that are first-time Georgia based funds, so long as the fund
 164 managers have at least five years of experience in venture capital or angel capital
 165 investing in Georgia based business enterprises; and

166 (D) A fund which has as its primary investment strategy the achievement of
 167 transformational economic development outcomes through focused investments of
 168 capital in seed or early stage businesses with high growth potential. The fund principals
 169 must have demonstrated the ability to lead investment rounds, advise and mentor
 170 entrepreneurs, and facilitate follow-on investments. A minimum of 10 percent of the
 171 committed capital of the fund must be committed by the institutional investors, fund
 172 principals, or other accredited investors.

173 (7) 'Fund administrator' means a state appointed investment advisory firm consisting of
 174 experienced investment professionals that will actively pursue investment opportunities
 175 for the State of Georgia. The investment advisory firm will evaluate and select Georgia
 176 based venture capital funds, in conjunction with the Invest Georgia Board, through a
 177 rigorous due diligence process.

178 (8) 'Growth stage venture capital fund' means:

179 (A) A fund having its principal office and a majority of its employees in Georgia that
 180 has at least two principals employed to direct the investment of the designated capital;

181 (B) A fund whose principals have at least five years of experience in the venture
 182 capital, angel capital, or private equity sector by investing primarily in Georgia
 183 domiciled companies or a fund whose principals have been based, as defined by having
 184 an office in the State of Georgia; and

185 (C) A fund which has as its primary investment strategy the achievement of
 186 transformational economic development outcomes through focused investments of
 187 capital in growth stage businesses with high return potential. The fund principals must
 188 have demonstrated the ability to lead investment rounds, advise and mentor
 189 entrepreneurs, and facilitate follow-on investments. A minimum of 50 percent of the
 190 committed capital of the fund must be committed by the institutional investors, fund
 191 principals, or other accredited investors.

192 (9) 'Invest Georgia Fund' means the fund created under the provisions of Code Section
 193 10-10-15 to hold the money collected for the purposes of this article.

194 (10) 'Qualified distribution' means any distribution or payment by the Invest Georgia
 195 Fund in connection with any of the following:

196 (A) Costs and expenses of forming, syndicating, and organizing the Invest Georgia
 197 Fund, including fees paid for professional services, and the costs of financing and
 198 insuring the obligations of the Invest Georgia Fund, provided such payments are not
 199 made to a participating investor;

200 (B) An annual management fee in accordance with a fund's partnership agreement, and
 201 consistent with such fund's other private investors, to offset the costs and expenses of
 202 managing and operating the Invest Georgia Fund; or

203 (C) Reasonable and necessary fees in accordance with industry custom for ongoing
 204 professional services, including, but not limited to, legal and accounting services related
 205 to the operation of the Invest Georgia Fund, but not including any lobbying or
 206 governmental relations.

207 (11) 'Qualified early stage business' or 'seed' business means a business that, at the time
 208 of the first investment in the business by a venture capital firm:

209 (A) Has its headquarters located in the State of Georgia;

210 (B) Has its principal business operations located in the State of Georgia and intends to
 211 maintain its principal business operations in this state after receiving an investment
 212 from the venture capital firm. In order to discourage the business from relocating
 213 outside Georgia within three years from the date of an initial investment, the investment
 214 in the business shall be subject to redemption by the venture capital firm within one
 215 year from the time the business relocates its principal business operations outside this
 216 state, unless the business maintains a significant presence in Georgia as determined by
 217 relative number of employees or relative assets remaining in Georgia following the
 218 relocation;

219 (C) Has 20 or fewer employees;

220 (D) Has a current gross annual revenue run rate of less than \$1 million;

221 (E) Has not obtained during its existence more than \$2 million in aggregate cash
 222 proceeds from the issuance of its equity or debt investments, not including commercial
 223 loans from chartered banks or savings and loan institutions; and

224 (F) Does not engage substantially in:

225 (i) Retail sales;

226 (ii) Real estate development or construction;

227 (iii) Entertainment, amusement, recreation, or athletic or fitness activity for which an
 228 admission is charged;

229 (iv) The business of insurance, banking, lending, financial, brokerage, or investment
 230 activities;

231 (v) Natural resource extraction, including, but not limited to, oil, gas, or biomass; or

232 (vi) The provision of professional services by accountants, attorneys, or physicians.

233 A business classified as a qualified early stage business at the time of the first qualified
 234 investment in such business shall remain classified as a qualified early stage business and
 235 may receive continuing qualified investments from venture capital firms participating in
 236 the Invest Georgia Fund. Continuing investments shall constitute qualified investments
 237 even though the business may not meet the definition of a qualified early stage business
 238 at the time of such continuing investments.

239 (12) 'Qualified growth stage business' means a business that, at the time of the first
 240 investment in the business by a venture capital firm:

241 (A) Has its headquarters located in the State of Georgia;

242 (B) Is a corporation, limited liability company, or a general or limited partnership
 243 located in this state;

244 (C) Has its principal business operations located in the State of Georgia and intends to
 245 maintain its principal business operations in this state after receiving an investment
 246 from the venture capital firm. In order to discourage the business from relocating
 247 outside Georgia within three years from the date of initial investment, the investment
 248 in the business shall be subject to redemption by the venture capital firm within one
 249 year from the time the business relocates its principal business operations outside this
 250 state, unless the business maintains a significant presence in Georgia as determined by
 251 relative number of employees or relative assets remaining in Georgia following the
 252 relocation;

253 (D) Has 100 or fewer employees;

254 (E) Has a current gross annual revenue run rate of more than \$1 million; and

255 (F) Does not engage substantially in:

256 (i) Retail sales;

257 (ii) Real estate development or construction;

258 (iii) Entertainment, amusement, recreation, or athletic or fitness activity for which an
 259 admission is charged;

260 (iv) The business of insurance, banking, lending, financial, brokerage, or investment
 261 activities;

262 (v) Natural resource extraction, including, but not limited to, oil, gas, or biomass; or

263 (vi) The provision of professional services by accountants, attorneys, or physicians.

264 A business classified as a qualified growth stage business at the time of the first qualified
 265 investment in such business shall remain classified as a qualified growth stage business
 266 and may receive continuing qualified investments from venture capital firms participating
 267 in the Invest Georgia Fund. Continuing investments shall constitute qualified
 268 investments even though the business may not meet the definition of a qualified growth
 269 stage business at the time of such continuing investments.

270 (13) 'Qualified investment' means the investment of money by the Invest Georgia Fund
 271 in each early stage venture capital fund or growth stage venture capital fund selected by
 272 the fund administrator.

273 10-10-12.

274 (a) There is hereby created the Invest Georgia Board, which shall exercise the powers and
 275 perform the duties prescribed by this article. The exercise by the board of its powers and
 276 duties is hereby declared to be an essential state governmental function. The board shall
 277 be subject to all laws generally applicable to state agencies and public officials, to the
 278 extent those laws do not conflict with the provisions of this article.

279 (b) The board shall consist of three members appointed by the Governor, one member
 280 appointed by the Lieutenant Governor, and one member appointed by the Speaker of the
 281 House of Representatives. Each appointed member shall be a resident of Georgia and shall
 282 have experience in at least one of the following areas:

283 (1) Early stage, angel, or venture capital investing;

284 (2) Growth stage venture capital investing;

285 (3) Fund of funds management; or

286 (4) Entrepreneurship.

287 No member of the board shall be an affiliate of any venture capital fund that is selected to
 288 perform services for the board or of an insurance company.

289 (c) The commissioner of economic development and a member of the One Georgia
 290 Authority or their designees shall serve as nonvoting members of the board.

291 (d) Initial appointees to the board shall serve staggered terms, with all of the initial terms
 292 beginning within 30 days of the effective date of this Code section. The terms of one
 293 member appointed by the Governor and the members appointed by the Lieutenant
 294 Governor and the Speaker of the House of Representatives shall expire on December 31,
 295 2016. The terms of the other two initial appointments by the Governor shall expire on
 296 December 31, 2018. Thereafter, terms of office for all appointees shall be for four years,
 297 with each term ending on the same day of the same month as did the term that it succeeds.
 298 A vacancy on the board shall be filled in the same manner as the original appointment,
 299 except that a person appointed to fill a vacancy shall be appointed to the remainder of the
 300 unexpired term. Any appointed member of the board shall be eligible for reappointment.

301 (e) A member of the board may be removed by such member's appointing official for
 302 misfeasance, willful neglect of duty, or other cause, after notice and a public hearing,
 303 unless the notice and hearing are waived in writing by such member.

304 (f) Members of the board shall serve without compensation. The Governor shall designate
 305 a member of the board to serve as chairperson. A majority of the voting members of the
 306 board shall constitute a quorum, and the affirmative vote of a majority of the voting
 307 members present shall be necessary for any action taken by the board. A vacancy in the
 308 membership of the board shall not impair the right of a quorum to exercise all rights and
 309 perform all duties of the board.

310 (g) The board shall have the power:

311 (1) To have a seal and alter the same at its pleasure;

312 (2) To acquire by purchase, lease, or otherwise, including acquisition of land from the
313 state government, and to hold, lease, and dispose of real and personal property of every
314 kind and character for its corporate purpose and to enter into any contracts, leases, or
315 other charges for the use of property or services of the board and collect and use the same
316 as necessary to operate the board; and to accomplish any of the purposes of this article
317 and make any purchases or sales necessary for such purposes;

318 (3) To acquire in its own name by purchase, on such terms and conditions and in such
319 manner as it may deem proper, real property, or rights or easements therein, or franchises
320 necessary or convenient for its corporate purpose, and to use the same so long as its
321 corporate existence shall continue, and to lease or make contracts with respect to the use
322 of such property, or dispose of the same in any manner it deems to be to the best
323 advantage of the board;

324 (4) To appoint, select, and employ officers, agents, and employees, including real estate,
325 environmental, engineering, architectural, and construction experts, fiscal agents, and
326 attorneys, and to fix their respective compensations;

327 (5) To make contracts and leases and to execute all instruments necessary or convenient.
328 Any and all persons, firms, and corporations and any and all political subdivisions,
329 departments, institutions, authorities, or agencies of the state and federal government are
330 authorized to enter into contracts, leases, or agreements with the board upon such terms
331 and for such purposes as they deem advisable; and, without limiting the generality of the
332 foregoing, authority is specifically granted to municipal corporations, counties, political
333 subdivisions, and to the board relative to entering into contracts, lease agreements, or
334 other undertakings authorized between the board and private corporations, both inside
335 and outside this state, and between the board and public bodies, including counties and
336 cities outside this state and the federal government;

337 (6) To accept loans and grants of money or materials or property of any kind from the
338 United States of America or any agency or instrumentality thereof upon such terms and
339 conditions as the United States of America or such agency or instrumentality may
340 require;

341 (7) To accept loans and grants of money or materials or property of any kind from the
342 State of Georgia or any authority, agency, or instrumentality or political subdivision
343 thereof upon such terms and conditions as the State of Georgia or such authority, agency,
344 or instrumentality or political subdivision may require;

345 (8) To exercise any power usually possessed by private corporations performing similar
 346 functions, provided that no such power is in conflict with the Constitution or general laws
 347 of this state; and

348 (9) To do all things necessary or convenient to carry out the powers expressly given in
 349 this article.

350 (h) The center shall provide the board with office space and such technical assistance as
 351 the board requires, and the board shall be attached to the center for administrative purposes.
 352 The center shall also consult with the board in connection with the administration of the
 353 Invest Georgia Fund created under this article.

354 10-10-13.

355 The board's primary responsibilities shall include:

356 (1) Establishing an investment policy for the selection of a fund administrator;

357 (2) Selecting a fund administrator to administer the provisions of this article;

358 (3) Giving final approval to allocations of designated capital to the venture capital funds
 359 selected by the fund administrator;

360 (4) Executing and overseeing the contracts of the fund administrator in order to assure
 361 compliance with this article; and

362 (5) Establishing a policy with respect to use of capital and profits returned to the state
 363 pursuant to the provisions of Code Section 10-10-19.

364 10-10-14.

365 (a) The fund administrator shall be selected by the board through a transparent open bid
 366 process and shall be responsible for administering the Invest Georgia Fund and for making
 367 all venture capital fund selections in accordance with the investment policies developed by
 368 the board or contained in this article.

369 (b) The fund administrator shall be responsible for selecting a group of Georgia based
 370 venture capital funds in two categories, seed or early stage venture capital funds and
 371 growth stage venture capital funds.

372 (c) The early stage venture capital funds shall invest primarily in early or seed stage
 373 businesses and shall be selected using a transparent open bid process pursuant to guidelines
 374 developed by the board. The fund administrator shall ensure that a diverse cross section
 375 of industry sectors is represented by the selected funds, including technology, health care,
 376 life sciences, agribusiness, logistics, energy, and advanced manufacturing.

377 (d) The growth stage venture capital funds shall be selected using a transparent open bid
 378 process pursuant to guidelines developed by the board. The fund administrator shall ensure
 379 that a diverse cross section of industry sectors is represented by the selected funds.

380 including technology, health care, life sciences, agribusiness, logistics, energy, and
381 advanced manufacturing.

382 (e) In the selection of the early stage venture capital funds and the growth stage venture
383 capital funds, the fund administrator shall consider the following factors:

384 (1) The management structure of the venture capital fund, including:

385 (A) The investment experience of the principals;

386 (B) The applicant's reputation in the venture capital firm industry and the applicant's
387 ability to attract coinvestment capital and syndicate investments in qualified businesses
388 in Georgia;

389 (C) The knowledge, experience, and capabilities of the applicant in subject areas
390 relevant to venture stage businesses in Georgia; and

391 (D) The tenure and turnover history of principals and senior investment professionals
392 of the venture capital fund;

393 (2) The venture capital fund's investment strategy, including:

394 (A) The applicant's record of performance in investing in early and growth stage
395 businesses;

396 (B) The applicant's history of attracting coinvestment capital and syndicate
397 investments;

398 (C) The soundness of the applicant's investment strategy and the compatibility of that
399 strategy with business opportunities in Georgia; and

400 (D) The applicant's history of job creation through investment;

401 (3) The venture capital fund's commitment to making investments that, to the fullest
402 extent possible:

403 (A) Create employment opportunities in Georgia;

404 (B) Lead to the growth of the Georgia economy and qualified businesses in Georgia;

405 (C) Complement the research and development projects of Georgia academic
406 institutions; and

407 (D) Foster the development of technologies and industries that present opportunities
408 for the growth of qualified businesses in Georgia; and

409 (4) The venture capital fund's commitment to Georgia, including:

410 (A) The applicant's presence in Georgia through permanent local offices or affiliation
411 with local investment firms;

412 (B) The local presence of senior investment professionals;

413 (C) The applicant's history of investing in early and growth stage businesses in
414 Georgia;

415 (D) The applicant's ability to identify investment opportunities through working
 416 relationships with Georgia research and development institutions and Georgia based
 417 businesses; and

418 (E) The applicant's commitment to investing an amount that matches or exceeds the
 419 amount of the applicant's designated capital received under this article in Georgia based
 420 qualified early stage businesses and qualified growth stage businesses.

421 (f) A venture capital fund shall file an application with the board in the form required by
 422 the fund administrator. The board shall begin accepting applications no later than 60 days
 423 after the initial appointments.

424 10-10-15.

425 (a) The Invest Georgia Fund is created as a separate fund maintained by the board, and
 426 moneys shall be expended only as provided in this article.

427 (b) The Invest Georgia Fund shall be capitalized through grants from the Seed-Capital
 428 Fund, designated appropriations to the center, and private contributions to the board.

429 (c) The capital raised shall be periodically distributed to the venture capital funds selected
 430 by the fund administrator pursuant to Code Section 10-10-14.

431 (d) All moneys appropriated to or otherwise paid into the Invest Georgia Fund shall be
 432 presumptively concluded to have been committed to the purpose for which they have been
 433 appropriated or paid and shall not lapse.

434 (e) The entire cost of administration of the Invest Georgia Fund, including expenses of the
 435 center incurred in connection with the creation, operation, management, liquidation, and
 436 investment of fund moneys may be paid from the assets of the Invest Georgia Fund.

437 10-10-16.

438 The Invest Georgia Fund may be funded over a five-year period through guidelines
 439 developed by the board. In the first year of the Invest Georgia Fund, the state may provide
 440 \$10 million to the Invest Georgia Fund; in the second year, \$15 million; in the third year,
 441 \$15 million; in the fourth year, \$25 million; and in the fifth year, \$35 million.

442 10-10-17.

443 (a) As soon as practicable after the board receives contributed capital, the board and each
 444 selected venture capital fund that has been allocated designated capital shall enter into a
 445 contract under which the allocated amount of designated capital shall be committed by the
 446 board to the selected venture capital funds for investment pursuant to this article.

447 (b) The board shall allocate designated capital as follows:

448 (1) Early stage venture capital funds: 40 percent of the total contributed capital in the
449 Invest Georgia Fund shall be allocated among the early stage venture capital funds, in
450 accordance with the following eligibility conditions and requirements:

451 (A) Each early stage venture capital fund shall be eligible for a minimum of \$10
452 million, up to a maximum of \$15 million allocation over a five-year period or in
453 accordance with the early stage venture capital fund's partnership agreement and
454 concurrent with the contributions of the early stage venture capital fund's other
455 investors;

456 (B) Each early stage venture capital fund shall be required to obtain other independent
457 investors. A minimum of 10 percent of the committed capital of the early stage venture
458 capital fund shall be committed by independent institutional investors, early stage
459 venture capital fund principals, or other accredited investors; and

460 (C) Each early stage venture capital fund shall be required to commit, via a side letter
461 or otherwise, to invest in Georgia based qualified early stage businesses and qualified
462 growth stage businesses an amount that matches or exceeds the amount of the early
463 stage venture capital fund's designated capital received under this article;

464 (2) Growth stage venture capital funds: 60 percent of the total contributed capital in the
465 Invest Georgia Fund shall be allocated among the growth stage venture capital funds, in
466 accordance with the following eligibility conditions and requirements:

467 (A) Each growth stage venture capital fund shall be eligible for an allocation of a
468 minimum of \$10 million designated capital over a five-year period or in accordance
469 with the growth stage venture capital fund's partnership agreement and concurrent with
470 the contributions of the growth stage venture capital fund's other investors;

471 (B) Each growth stage venture capital fund shall be required to obtain other
472 independent investors. A minimum of 50 percent of the committed capital of the
473 growth stage venture capital fund shall be committed by independent institutional
474 investors, growth stage venture capital fund principals, or other accredited investors;
475 and

476 (C) Each growth stage venture capital fund shall be required to commit, via a side letter
477 or otherwise, to invest in Georgia based qualified early stage businesses and qualified
478 growth stage businesses an amount that matches or exceeds the amount of the growth
479 stage venture capital fund's designated capital received under this article.

480 10-10-18.

481 (a) Not later than December 31 of each year, each venture capital fund shall report to the
482 board:

483 (1) The amount of designated capital remaining uninvested at the end of the preceding
 484 calendar year;

485 (2) All qualified investments made during the preceding calendar year, including the
 486 number of employees of each business at the time the qualified investment was made and
 487 as of December 31 of that year;

488 (3) For any qualified investment in which the venture capital fund no longer has a
 489 position as of the end of the calendar year, the number of employees of the business as
 490 of the date the investment was terminated; and

491 (4) Any other information the board requires to ascertain the impact of this article on the
 492 economy of Georgia.

493 (b) Not later than 180 days after the end of its fiscal year, each venture capital fund shall
 494 provide to the board an audited financial statement that includes the opinion of an
 495 independent certified public accountant.

496 (c) Not later than 60 days after the sale or other disposition of a qualified investment, the
 497 selling venture capital fund shall provide to the board a report on the amount of the interest
 498 sold or disposed of and the consideration received for the sale or disposition.

499 10-10-19.

500 Designated capital and investment returns resulting from the qualified investments made
 501 under this article shall be retained and used to make additional qualified investments in
 502 venture capital funds selected by the fund administrator; provided, however, that the Invest
 503 Georgia Fund shall receive any and all returns representing the principal portion of
 504 designated capital and shall receive 80 percent of investment returns in excess of
 505 designated capital from each respective venture capital fund with the remaining 20 percent
 506 of investment returns in excess of designated capital retained by each respective venture
 507 capital fund in accordance with such venture capital fund's partnership agreement.

508 10-10-20.

509 (a)(1) On or before January 1, 2015, and January 1 of each subsequent year, the fund
 510 administrator, through the board, shall submit a report on the implementation of this
 511 article to the Governor, the Lieutenant Governor, the Speaker of the House of
 512 Representatives, and the chairpersons of the Senate Finance Committee and the House
 513 Committee on Ways and Means.

514 (2) The center shall also publish the report on the center's website in a publicly available
 515 format.

516 (3) The report published on the website shall not include any proprietary or confidential
 517 information.

518 (b) The report shall include:

519 (1) With respect to each venture capital fund or private equity organization that has
520 received an allocation of designated capital:

521 (A) The name and address of the venture capital fund or private equity organization;

522 (B) The names of the individuals making qualified investments under this article;

523 (C) The amount of designated capital received during the previous year;

524 (D) The cumulative amount of designated capital received;

525 (E) The amount of designated capital remaining uninvested at the end of the preceding
526 calendar year;

527 (F) The names and locations of qualified businesses receiving designated capital and
528 the amount of each qualified investment;

529 (G) The annual performance of each qualified investment, including the qualified
530 investment's fair market value as calculated according to generally accepted accounting
531 principles; and

532 (H) The amount of any qualified distribution or nonqualified distribution taken during
533 the prior year, including any management fee;

534 (2) With respect to the Invest Georgia Fund:

535 (A) The amount of designated capital received during the previous year;

536 (B) The cumulative amount of designated capital received;

537 (C) The amount of designated capital remaining uninvested at the end of the preceding
538 calendar year;

539 (D) The names and locations of qualified businesses receiving designated capital and
540 the amount of each qualified investment; and

541 (E) The annual performance of each qualified investment, including the qualified
542 investment's fair market value as calculated according to generally accepted accounting
543 principles; and

544 (3) With respect to the qualified businesses in which venture capital funds have invested:

545 (A) The classification of the qualified businesses according to the industrial sector and
546 the size of the business;

547 (B) The total number of jobs created in Georgia by the investment and the average
548 wages paid for the jobs; and

549 (C) The total number of jobs retained in Georgia as a result of the investment and the
550 average wages paid for the jobs."

551 **SECTION 6.**

552 Code Section 48-7-40.30 of the Official Code of Georgia Annotated, relating to an income
 553 tax credit for certain qualified investments for a limited period of time, is amended by
 554 revising subsections (d), (e), (f), and (i) as follows:

555 "(d) Any individual person making a qualified investment directly in a qualified business
 556 in the 2011, 2012, ~~or 2013, 2014, or 2015~~ calendar year shall be allowed a tax credit of 35
 557 percent of the amount invested against the tax imposed by this chapter commencing on
 558 January 1 of the second year following the year in which the qualified investment was
 559 made as provided in this Code section.

560 (e) Any pass-through entity making a qualified investment directly in a qualified business
 561 in the 2011, 2012, ~~or 2013, 2014, or 2015~~ calendar year shall be allowed a tax credit of 35
 562 percent of the amount invested against the tax imposed by this chapter commencing on
 563 January 1 of the second year following the year in which the qualified investment was
 564 made as provided in this Code section. Each individual who is a shareholder, partner, or
 565 member of an entity shall be allocated the credit allowed the pass-through entity in an
 566 amount determined in the same manner as the proportionate shares of income or loss of
 567 such pass-through entity would be determined. If an individual's share of the pass-through
 568 entity's credit is limited due to the maximum allowable credit under this Code section for
 569 a taxable year, the pass-through entity and its owners may not reallocate the unused credit
 570 among the other owners.

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

573 (1) The qualified investor ~~is not~~ shall not be eligible for the credit for the taxable year in
 574 which the qualified investment is made but shall be eligible for the credit for the second
 575 taxable year beginning after the qualified investment is made as provided in subsection
 576 (d) or (e) of this Code section;

577 (2) The aggregate amount of credit allowed an individual for one or more qualified
 578 investments in a single taxable year under this Code section, whether made directly or by
 579 a pass-through entity and allocated to such individual, shall not exceed \$50,000.00;

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

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

588 (5) The credit shall not be transferrable by the qualified investor except to the heirs and
 589 legatees of the qualified investor upon his or her death and to his or her spouse or incident
 590 to divorce; ~~and.~~

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

594 "(i)(1) A qualified investor seeking to claim a tax credit provided for under this Code
 595 section ~~must~~ shall submit an application to the commissioner for tentative approval of
 596 such tax credit between September 1 and October 31 of the year for which the tax credit
 597 is claimed or allowed. The commissioner shall promulgate the rules and forms on which
 598 the application is to be submitted. Amounts specified on such application shall not be
 599 changed by the qualified investor after the application is approved by the commissioner.
 600 The commissioner shall review such application and shall tentatively approve such
 601 application upon determining that it meets the requirements of this Code section.

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

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

607 (B) The total aggregate amount of all tax credits allowed to qualified investors or
 608 pass-through entities for investments made in the 2012 calendar year and claimed and
 609 allowed in the 2014 taxable year shall not exceed \$10 million in such year; ~~and~~

610 (C) The total aggregate amount of all tax credits allowed to qualified investors or
 611 pass-through entities for investments made in the 2013 calendar year and claimed and
 612 allowed in the 2015 taxable year shall not exceed \$10 million in such year; ~~and~~

613 (D) The total aggregate amount of all tax credits allowed to qualified investors or
 614 pass-through entities for investments made in the 2014 calendar year and claimed and
 615 allowed in the 2016 taxable year shall not exceed \$5 million in such year; and

616 (E) The total aggregate amount of all tax credits allowed to qualified investors or
 617 pass-through entities for investments made in the 2015 calendar year and claimed and
 618 allowed in the 2017 taxable year shall not exceed \$5 million in such year.

619 (3) The commissioner shall notify each qualified investor of the tax credits tentatively
 620 approved and allocated to such qualified investor by December 31 of the year in which
 621 the application was submitted. In the event that the credit amounts on the tax credit
 622 applications filed with the commissioner exceed the maximum aggregate limit of tax
 623 credits under this subsection, then the tax credits shall be allocated among the qualified
 624 investors who filed a timely application on a pro rata basis based upon the amounts

625 otherwise allowed by this Code section. Once the tax credit application has been
 626 approved and the amount approved has been communicated to the applicant, the qualified
 627 investor may then apply the amount of the approved tax credit to its tax liability for the
 628 tax year for which the approved application applies."

629 **SECTION 6.1.**

630 Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from
 631 sales and use taxes, is amended by revising paragraph (87) as follows:

632 "(87)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from
 633 July 1, ~~2009~~ 2013, until June 30, ~~2011~~ 2015, sales of tangible personal property used
 634 for and in the renovation or expansion of a zoological institution.

635 (B) As used in this paragraph, the term 'zoological institution' means a nonprofit
 636 wildlife park, terrestrial institution, or facility which is:

637 (i) ~~Open~~ Is open to the public, ~~that~~ exhibits and cares for a collection consisting
 638 primarily of animals other than fish, and has received accreditation from the
 639 Association of Zoos and Aquariums; and

640 (ii) ~~Located~~ Is located in this state and owned or operated by an organization which
 641 is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

642 (C) Any person making a sale of tangible personal property for the purpose specified
 643 in this paragraph shall collect the tax imposed on this sale unless the purchaser
 644 furnishes such person with an exemption determination letter issued by the
 645 commissioner certifying that the purchaser is entitled to purchase the tangible personal
 646 property without paying the tax;"

647 **SECTION 7.**

648 Article 6 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to the
 649 "Georgia Tourism Development Act," is amended by revising Code Section 48-8-271,
 650 relating to definitions, as follows:

651 "48-8-271.

652 As used in this article, the term:

653 (1) 'Agreement' means ~~a tourism attraction~~ an agreement for a tourism attraction project
 654 ~~entered into, pursuant to Code Section 48-8-275, on behalf of~~ between the Department
 655 of Community Affairs and an approved company pursuant to Code Section 48-8-275.

656 (2) 'Annual sales and use tax' means those state and local sales and use taxes generated
 657 by sales to the general public at the approved tourism attraction during the calendar year
 658 immediately preceding the date of filing the sales and use tax refund claim.

659 ~~(2)(3)~~ 'Approved company' means ~~any corporation, limited liability company,~~
 660 ~~partnership, limited liability partnership, sole proprietorship, business trust, or any other~~
 661 ~~the entity that is seeking~~ has submitted an application to undertake a tourism attraction
 662 project, which has been approved pursuant to ~~Code Section 48-8-275 and is approved,~~
 663 ~~pursuant to subsection (b) of Code Section 48-8-274, by the Governor and by the~~
 664 ~~governing authority of the city where the tourism attraction project is to be located if~~
 665 ~~within a city and by the governing authority of the county where the tourism attraction~~
 666 ~~project is to be located.~~ For each tourism attraction project, only one company may be
 667 approved under this article.

668 ~~(3)(4)~~ 'Approved costs' means:

669 (A) For new tourism attractions:

670 (i) Obligations incurred for labor and to vendors, contractors, subcontractors,
 671 builders, suppliers, deliverymen, and materialmen in connection with the acquisition,
 672 construction, equipping, and installation of a new tourism attraction project;

673 (ii) The costs of acquiring real property or rights in real property and any costs
 674 incidental thereto;

675 (iii) All costs for construction materials and equipment installed at the new tourism
 676 attraction project;

677 (iv) The cost of contract bonds and of insurance of all kinds that may be required or
 678 necessary during the course of the acquisition, construction, equipping, and
 679 installation of a new tourism attraction project which is not paid by the vendor,
 680 supplier, deliveryman, or contractor or otherwise provided;

681 (v) All costs of architectural and engineering services, including, but not limited to,
 682 estimates, plans and specifications, preliminary investigations, and supervision of
 683 construction and installation, as well as for the performance of all the duties required
 684 by or consequent to the acquisition, construction, equipping, and installation of a new
 685 tourism attraction project;

686 (vi) All costs required to be paid under the terms of any contract for the acquisition,
 687 construction, equipping, and installation of a new tourism attraction project;

688 (vii) All costs required for the installation of utilities, including, but not limited to,
 689 water, sewer, sewage treatment, gas, electricity, communications, and similar
 690 facilities; and off-site construction of utility extensions if paid for by the approved
 691 company; and

692 (viii) All other costs comparable with those described in this subparagraph; or

693 (B) For existing tourism attractions, any approved costs otherwise specified in
 694 subparagraph (A) of this paragraph; provided, however, that such costs are limited to

695 the expansion only of an existing tourism attraction and not the renovation of an
696 existing tourism attraction.

697 (5) 'Approved tourism attraction' means a project that was approved pursuant to Code
698 Section 48-8-274 and that has since opened to the public and become operational as a
699 tourism attraction.

700 (6) 'Expansion' means the addition of equipment, facilities, or real estate to an existing
701 tourism attraction for the purpose of increasing its size, scope, or visitor capacity.

702 ~~(4)~~(7) 'Incremental sales and use tax' means those state and local sales and use taxes
703 generated by the tourism attraction project above the amount of such sales and use taxes
704 generated by the previous use of the property on which such project is located except as
705 otherwise provided in Code Section 48-8-278 sales to the general public at the approved
706 tourism attraction from the date on which construction of the expansion project is
707 completed through the end of the calendar year immediately preceding the date of filing
708 the incremental sales and use tax refund claim, less the state and local sales and use taxes
709 that were generated by sales to the general public at the approved tourism attraction
710 during the 12 month period immediately preceding the commencement of construction
711 of the expansion project.

712 (8) 'Incremental sales and use tax refund' means the amount equal to the lesser of the
713 incremental sales and use tax or 2.5 percent of the total of all approved costs incurred at
714 any time prior to January 1 of the year during which the claim for the incremental sales
715 and use tax refund is filed.

716 (9) 'Local sales and use tax' means any sales and use tax, excluding the sales tax for
717 educational purposes levied pursuant to Part 2 of Article 3 of this chapter and Article
718 VIII, Section VI, Paragraph IV of the Constitution, that is levied and imposed in an area
719 consisting of less than the entire state, however authorized.

720 (10) 'Renovation' means the restoration, rebuilding, redesign, repair, or replacement of
721 worn elements so that the functionality, quality, or attractiveness of buildings or
722 structures is equivalent to a former state.

723 (11) 'Sales and use tax refund' means the amount equal to the lesser of the annual sales
724 and use tax or 2.5 percent of the total of all approved costs incurred at any time prior to
725 January 1 of the year during which the claim for the sales and use tax refund is filed.

726 ~~(5)~~(12) 'Tourism attraction' means a cultural or historical site; a recreation or
727 entertainment facility; a convention hotel and conference center; an automobile race
728 track, including, but not limited to, Atlanta Motor Speedway, with other tourism
729 amenities; a golf course facility with other tourism amenities; marinas and water parks
730 with lodging and restaurant facilities designed to attract tourists to the State of Georgia;
731 or a Georgia crafts and products center. A tourism attraction shall not include the

732 following: ~~(A) Facilities that are~~ be primarily devoted to the retail sale of goods,
 733 shopping centers, restaurants, or movie theaters, ~~or~~

734 ~~(B) Recreational facilities that do not serve as likely destinations where individuals~~
 735 ~~who are not residents of this state would remain overnight in commercial lodging at the~~
 736 ~~tourism attraction.~~

737 ~~(6)(13)~~ 'Tourism attraction project' or 'project' ~~means~~ includes the real estate acquisition,
 738 including the acquisition of real estate by a leasehold interest with a minimum term of 30
 739 years, construction, and equipping of a tourism attraction; the construction and
 740 installation of improvements to facilities necessary or desirable for the acquisition,
 741 construction, and installation of a tourism attraction, including, but not limited to,
 742 surveys; installation of utilities, which may include water, sewer, sewage treatment, gas,
 743 electricity, communications, and similar facilities; and off-site construction of utility
 744 extensions if paid for by the approved company. Such term shall not include the
 745 renovation of an existing tourism attraction."

746 **SECTION 8.**

747 Said article is further amended by revising Code Section 48-8-273, relating to tourism
 748 attraction agreements, as follows:

749 "48-8-273.

750 (a) In the ~~sole~~ discretion of the ~~Governor~~ commissioner of economic development and the
 751 commissioner of community affairs, in consideration of the execution of the agreement;
 752 ~~each~~ and subject to the approved company's compliance with the terms of the agreement,
 753 an approved company shall be granted a sales and use tax refund ~~from the incremental sales~~
 754 ~~and use tax on the sales generated by the approved company and arising at the tourism~~
 755 ~~attraction~~ for new projects or an incremental sales and use tax refund for expansions of
 756 existing tourism attractions.

757 (b) The approved company shall have no obligation to refund or otherwise return any
 758 amount of this sales and use tax refund to the persons from whom the sales and use tax was
 759 collected.

760 (c) ~~For all tourism attractions the~~ The term of the agreement granting the sales and use tax
 761 a refund under this article shall be ten years, commencing on ~~the later of: (1) The final~~
 762 ~~approval of the agreement for purposes of the sales and use tax refund; or (2) The~~ the date
 763 the tourism attraction opens for business and begins to collect sales and use taxes or, for
 764 an expansion, the date construction is complete.

765 (d) ~~Any sales and use tax collected by an approved company on sales transacted after final~~
 766 ~~approval but prior to the commencement of the term of the agreement shall be refundable~~

767 as if collected after the commencement of the term and applied to the approved company's
768 first year's refund after activation of the term and without changing the term.

769 ~~(e) The total sales and use tax refund allowed to the approved company over the term of~~
770 ~~the agreement shall be equal to the lesser of the total amount of the incremental sales and~~
771 ~~use tax liability of the approved company or 25 percent of the approved costs for the~~
772 ~~tourism attraction project. The incremental sales and use tax refund shall accrue over the~~
773 ~~term of the agreement in an annual amount equal to the lesser of the incremental sales and~~
774 ~~use tax liability of the approved company for that year or 2.5 percent of the approved costs.~~

775 ~~(f)(d) On or before March 31 of each year~~ For each calendar year or partial calendar year
776 occurring during the term of the agreement, an approved company shall file with the
777 Department of Revenue a claim for ~~the incremental sales and use tax refund collected by~~
778 ~~the approved company and remitted to the Department of Revenue during the preceding~~
779 ~~calendar year pursuant to subsection (e) of this Code section~~ a refund under this article by
780 March 31 of the following year.

781 ~~(g)(e)~~ The Department of Revenue, in consultation with the Department of Community
782 Affairs and other appropriate state agencies, shall promulgate administrative regulations
783 and require the filing of a refund form designed by the Department of Revenue to reflect
784 the intent of this article.

785 ~~(h)(f)~~ No sales and use tax refund shall be granted to an approved ~~project which~~ company
786 that is during a tax year simultaneously receiving any other state tax incentive associated
787 with any one tourism attraction project.

788 ~~(i)(g)~~ Any sales and use tax refund shall be first applied to any outstanding tax obligation
789 of the approved company ~~which~~ that is due and payable to the state.

790 ~~(h)~~ By resolution and at the discretion of the county and city, if any, where the tourism
791 attraction project is to be located, the local sales and use tax may be refunded under the
792 same terms and conditions as any refund of state sales and use taxes.

793 (i) Refunds under this article shall be made without interest."

794 **SECTION 9.**

795 Said article is further amended by revising Code Section 48-8-274, relating to an application
796 for a tourism project, as follows:

797 "48-8-274.

798 (a) The commissioner of community affairs, in consultation with ~~the Governor and~~ other
799 appropriate state agencies, shall establish standards for the filing of an application for
800 tourism attraction projects by the promulgation of administrative regulations.

- 801 (b) In addition to any standards set forth pursuant to subsection (a) of this Code section,
 802 an ~~An~~ application for a tourism attraction project filed with the Department of Community
 803 Affairs shall include, ~~but not be limited to:~~
- 804 (1) Marketing plans for the tourism attraction ~~project~~ that target individuals who are not
 805 residents of this state;
 - 806 (2) A description and location of the tourism attraction project;
 - 807 (3) Capital and other ~~anticipated~~ specific expenditures for the tourism attraction project
 808 and the anticipated sources of funding for such project;
 - 809 (4) The anticipated employment and wages to be paid at the tourism attraction ~~project~~;
 - 810 (5) Business plans ~~which~~ that indicate the average number of days in a year in which the
 811 tourism attraction ~~project~~ will be in operation and open to the public; ~~and~~
 - 812 (6) The anticipated revenues to be generated by the tourism attraction ~~project~~; and
 - 813 (7) Resolutions from the governing authority of the county or the city, if any, in which
 814 the tourism attraction will be located endorsing the tourism attraction project and, where
 815 applicable, including appropriate affirmative clauses regarding permitting, land use, local
 816 incentives, and the provision of local public infrastructure.
- 817 (c) Following the filing of the application, the Department of Community Affairs shall
 818 submit the application to an independent consultant who shall perform an in depth analysis
 819 of the proposed project. All costs associated with such application and analysis shall be
 820 paid for by the approved company.
- 821 (d) ~~The Governor may, in the Governor's sole discretion,~~ commissioner of economic
 822 development and the commissioner of community affairs may grant approval to the tourism
 823 attraction project if the project shall:
- 824 (1) Have approved costs in excess of \$1 million and such project is to be a tourism
 825 attraction;
 - 826 (2) Have a significant and positive economic impact on the state considering, among
 827 other factors, the extent to which the tourism attraction project will compete directly with
 828 tourism attractions in this state ~~and the amount by which increased state local tax~~
 829 ~~revenues from the tourism attraction project will exceed the refund to be given to the~~
 830 ~~approved company~~;
 - 831 (3) Produce sufficient revenues and public demand to be operating and open to the public
 832 for a minimum of 100 days per year, including the first year of operation;
 - 833 (4) Not adversely affect existing employment in ~~the~~ this state; and
 - 834 (5) For each year following the third year of operation, attract a minimum of 25 percent
 835 of its visitors from nonresidents of this state; ~~and~~
 - 836 ~~(6) Meet such other criteria as deemed appropriate by the Governor."~~

837 **SECTION 10.**

838 Said article is further amended by revising Code Section 48-8-275, relating to entering into
839 an agreement with an approved company, as follows:

840 "48-8-275.

841 Following approval ~~by the Governor of a project~~, the Department of Community Affairs
842 shall enter into an agreement with any approved company. ~~The agreement may which may~~
843 ~~also~~ include as a partner any local development authority. ~~The, and the~~ terms and
844 provisions of each agreement shall include, but not be limited to:

845 (1) The projected amount of approved costs, ~~provided that any increase in approved costs~~
846 ~~incurred by the approved company and agreed to by the Department of Community~~
847 ~~Affairs shall apply retroactively for purposes of calculating the carry forward for unused~~
848 ~~sales and use tax refunds as set forth in subsection (e) of Code Section 48-8-273 for tax~~
849 ~~years commencing on or after July 1, 2011;~~

850 (2) A date certain by which the approved company shall have completed the tourism
851 attraction project and begun operations. Upon request from any approved company that
852 has received final approval, the Department of Community Affairs shall grant an
853 extension or change, which in no event shall exceed 18 months from the date of final
854 approval, to the completion date as specified in the agreement with an approved
855 company; and

856 (3) A statement specifying the term of the agreement in accordance with subsection (c)
857 of Code Section 48-8-273."

858 **SECTION 11.**

859 Said article is further amended by revising Code Section 48-8-276, relating to a failure to
860 abide by the terms of an agreement, as follows:

861 "48-8-276.

862 (a) Compliance with the agreement is subject to review by the Department of Community
863 Affairs.

864 (b) In the event an approved company fails to abide by the terms of the agreement, then
865 such agreement shall be void and all sales and use tax proceeds which that were refunded
866 shall become immediately due and payable back to the state and to the governing authority
867 of any county or municipality whose approval was required under paragraph (2) of Code
868 Section 48-8-271."

869 **SECTION 12.**

870 Said article is further amended by repealing Code Section 48-8-278, relating to the
871 application of Article 6 of Chapter 8, the "Georgia Tourism Development Act."

872 **SECTION 13.**

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

875 **SECTION 14.**

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