

The Senate Committee on Finance offered the following substitute to HB 224:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,
2 relating to the imposition, rate, computation, and exemptions from state income tax, so as to
3 modify conditions for earning a tax credit for establishing or relocating quality jobs; to revise
4 a tax credit for new purchases and acquisitions of qualified investment property in tier 1
5 counties; to provide for such tax credits to be allowed against a taxpayer's payroll
6 withholding under certain conditions; to provide that certain previously claimed and unused
7 tax credits earned by taxpayers may be applied against such taxpayers' payroll withholding
8 under certain conditions; to increase the minimum investment threshold to earn tax credits
9 in tier 2, tier 3, and tier 4 counties; to provide for conditions and limitations; to provide for
10 applications and proration; to revise definitions; to provide for related matters; to provide
11 for an effective date and applicability; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **PART I**
14 **SECTION 1-1.**

15 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the
16 imposition, rate, computation, and exemptions from state income tax, is amended by revising
17 Code Section 48-7-40.17, relating to establishing or relocating quality jobs and tax credit, as
18 follows:

19 "48-7-40.17.

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

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

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

25 (A) Is located in this state;

- 26 (B) Has a regular work week of 30 hours or more;
- 27 (C) Is not a job that is or was already located in Georgia regardless of which taxpayer
- 28 the individual performed services for; and
- 29 (D) Pays at or above 110 percent of the average wage of the county in which it is
- 30 located.

31 (3) 'Qualified investment property' means all real and personal property purchased or

32 acquired by a taxpayer for use in a qualified project, including, but not limited to,

33 amounts expended on land acquisition, improvements, buildings, building improvements,

34 and any personal property to be used in the facility or facilities. Any lease for a period

35 of three years or longer of any real or personal property used in a new or expanded

36 facility or facilities which would otherwise constitute qualified investment property shall

37 be treated as the purchase or acquisition thereof by the lessee. The taxpayer may treat the

38 full value of the leased property as qualified investment property in the year in which the

39 lease becomes binding on the lessor and the taxpayer.

40 (4) 'Qualified investment property requirement' means the requirement that a minimum

41 of \$2.5 million in qualified investment property will have been purchased or acquired by

42 the taxpayer to be used with respect to a qualified project. Such qualified investment

43 property must be placed in service by the end of the two-year period specified in

44 subsection (b) of this Code section.

45 (5) 'Qualified project' means a project which meets the qualified investment property

46 requirement and which involves the lease or construction of one or more new facilities

47 in this state or the expansion of one or more existing facilities in this state. For purposes

48 of this paragraph, the term 'facilities' means all facilities comprising a single project,

49 including noncontiguous parcels of land, improvements to such land, buildings, building

50 improvements, and any personal property that is used in the facility or facilities.

51 (6) 'Rural county' means a county that has a population of less than 50,000 with 10

52 percent or more of such population living in poverty based upon the most recent, reliable,

53 and applicable data published by the United States Bureau of the Census. On or before

54 December 31 of each year, the commissioner of the Department of Community Affairs

55 shall publish a list of such counties.

56 ~~(6)~~(7) 'Taxpayer' means any person required by law to file a return or to pay taxes,

57 except that any taxpayer may elect to consider the jobs within its disregarded entities, as

58 defined in the Internal Revenue Code, for purposes of calculating the number of new

59 quality jobs created by the taxpayer under this Code section.

60 (b) A taxpayer establishing new quality jobs in this state or relocating quality jobs into this

61 state, which elects not to receive the tax credits provided for by Code Sections 48-7-40,

62 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

63 jobs and investments created by, arising from, related to, or connected in any way with the
 64 same project, that creates: and, ~~within one year of the first date on which the taxpayer~~
 65 ~~pursuant to the provisions of Code Section 48-7-101 withholds wages for employees in this~~
 66 ~~state and employs at least 50 persons in new quality jobs in this state, shall be allowed a~~
 67 ~~credit for taxes imposed under this article; except that if the first date on which the~~
 68 ~~taxpayer, pursuant to the provisions of Code Section 48-7-101, withholds wages for~~
 69 ~~employees in this state occurs in a taxable year beginning on or after January 1, 2017, the~~
 70 ~~taxpayer has two years to employ at least 50 persons in new quality jobs in this state:~~

71 (1) At least ten new quality jobs within a single rural county within one year of the first
 72 date on which the taxpayer withholds wages for employees in this state pursuant to the
 73 provisions of Code Section 48-7-101, provided that such county is designated as a tier 1
 74 county by the commissioner of community affairs in accordance with Code
 75 Section 48-7-40;

76 (2) At least 25 new quality jobs within a single rural county within one year of the first
 77 date on which the taxpayer withholds wages for employees in this state pursuant to the
 78 provisions of Code Section 48-7-101, provided that such county is designated as a tier 2
 79 county by the commissioner of community affairs in accordance with Code
 80 Section 48-7-40; or

81 (3) At least 50 new quality jobs in this state within two years of the first date on which
 82 the taxpayer pursuant to the provisions of Code Section 48-7-101 withholds wages for
 83 employees in this state

84 shall be allowed a credit for taxes imposed under this article as provided in subsection (b.1)
 85 of this Code section.

86 (b.1) The value of the credit allowed pursuant to this Code section shall be:

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

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

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

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

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

102 ~~provided, however, that where~~

103 (b.2)(1) If the amount of ~~such credit~~ the tax credit allowed pursuant to this Code section
 104 exceeds a taxpayer's liability for such taxes in a taxable year, the excess may be taken as
 105 a credit against such taxpayer's quarterly or monthly payment under Code
 106 Section 48-7-103 but shall not ~~to~~ exceed in any one taxable year the credit amounts in
 107 paragraphs (1) through (5) of subsection (b.1) of this subsection Code section for each
 108 new quality job when aggregated with the credit applied against taxes under this article.
 109 Each employee whose employer receives a credit against such taxpayer's quarterly or
 110 monthly payment under Code Section 48-7-103 shall receive a credit against his or her
 111 income tax liability under Code Section 48-7-20 for the corresponding taxable year for
 112 the full amount which would be credited against such liability prior to the application of
 113 the credit provided for in this ~~subsection Code section~~. Credits against quarterly or
 114 monthly payments under Code Section 48-7-103 and credits against liability under Code
 115 Section 48-7-20 established by this subsection shall not constitute income to the taxpayer.

116 (2)(A) For each new quality job created, the credit ~~established by this subsection~~
 117 allowed pursuant to this Code section may be taken for the first taxable year in which
 118 the new quality job is created and for the four immediately succeeding taxable years;
 119 provided, however, that such new quality jobs must be created within seven years from
 120 the close of the taxable year in which the taxpayer first becomes eligible for such credit.

121 (B) A credit ~~Credit~~ shall not be allowed during a year if the net employment increase
 122 falls below the ~~50~~ number of new quality jobs required by subsection (b) of this Code
 123 section. Any credit received for years prior to the year in which the net employment
 124 increase falls below the ~~50~~ number of new quality jobs required by subsection (b) of
 125 this Code section shall not be affected except as provided in subsection (g) of this Code
 126 section. The state revenue commissioner shall adjust the credit allowed each year for
 127 net new employment fluctuations above the ~~50~~ number of new quality jobs required by
 128 subsection (b) of this Code section.

129 (c) Only a taxpayer that completes the creation of a qualified project in a taxable year
 130 beginning on or after January 1, 2017, shall be eligible to begin a subsequent seven-year
 131 job creation period for the qualified project, provided that the taxpayer creates 50 or more
 132 new quality jobs, at the site or sites of a qualified project or the facility or facilities
 133 resulting therefrom, above its single previous high yearly average number of new quality
 134 jobs during any prior seven-year job creation period. A subsequent seven-year job creation
 135 period is subject to all the requirements of this Code section. A taxpayer must notify the

136 commissioner of ~~their~~ its intent to begin a subsequent seven-year job creation period. The
137 commissioner shall provide by regulation the time in which such notification shall occur.
138 New quality jobs generated under previous seven-year job creation periods shall continue
139 to be eligible for the credit as provided by this Code section. No new quality jobs may be
140 generated under previous periods of eligibility after a subsequent period of eligibility has
141 begun. New quality jobs created in a subsequent seven-year job creation period shall not
142 be counted as additional new quality jobs under a previous seven-year job creation period;
143 instead those new quality jobs shall count toward the subsequent period. For purposes of
144 determining the number of new quality jobs in a particular year that are attributable to each
145 seven-year job creation period, the taxpayer shall begin with the first seven-year job
146 creation period and then attribute the remainder to each subsequent seven-year job creation
147 period from the oldest to the newest. Such attributions shall be made up to the single high
148 yearly average number of new quality jobs for each seven-year job creation period. A
149 taxpayer may create more than one subsequent seven-year job creation period. If at the
150 time a taxpayer begins a subsequent seven-year job creation period, the taxpayer had a year
151 or years in the prior seven-year job creation period where the number of new quality jobs
152 ~~were~~ was below the single high yearly average number of new quality jobs, the taxpayer
153 shall be allowed to make an irrevocable election to use the average number of new quality
154 jobs for the completed years in the prior seven-year job creation period instead of the single
155 high yearly average number of new quality jobs for all purposes of this subsection. If such
156 election is made, the number of new quality jobs in the years subsequent to the completed
157 years for the prior seven-year job creation period shall be deemed to not exceed the average
158 number of new quality jobs for the completed years in the prior seven-year job creation
159 period. New quality jobs over such average number shall be attributed to the subsequent
160 seven-year job creation period as provided in this subsection.

161 (d) The number of new quality jobs to which this Code section shall be applicable shall
162 be determined by comparing the monthly average of new quality jobs subject to Georgia
163 income tax withholding for the taxable year with the corresponding average for the prior
164 taxable year.

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

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

172 (g) Taxpayers that initially claimed the credit under this Code section for any taxable year
 173 beginning before January 1, ~~2012~~ 2020, shall be governed, for purposes of all such credits
 174 claimed as well as any credits claimed in subsequent taxable years related to such initial
 175 claim, by this Code section as it was in effect for the taxable year in which the taxpayer
 176 made such initial claim.

177 (h) The state revenue commissioner shall promulgate any rules and regulations necessary
 178 to implement and administer this Code section."

179 **PART II**

180 **SECTION 2-1.**

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

184 "48-7-40.2.

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

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

190 (2) 'Qualified investment property' means all real and personal property purchased or
 191 acquired by a taxpayer for use in the construction of an additional manufacturing or
 192 telecommunications facility to be located in this state or the expansion of an existing
 193 manufacturing or telecommunications facility located in this state, including, but not
 194 limited to, amounts expended on land acquisition, improvements, buildings, building
 195 improvements, and machinery and equipment to be used in the manufacturing or
 196 telecommunications facility. The department shall promulgate rules defining eligible
 197 manufacturing facilities, telecommunications facilities, and qualified investment property
 198 pursuant to this paragraph.

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

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

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

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

218 (7) 'Rural county' means a county that has a population of less than 50,000 with 10
 219 percent or more of such population living in poverty based upon the most recent, reliable,
 220 and applicable data published by the United States Bureau of the Census. On or before
 221 December 31 of each year, the commissioner of the Department of Community Affairs
 222 shall publish a list of such counties.

223 (b) In the case of a taxpayer which has operated for the immediately preceding three years
 224 an existing manufacturing or telecommunications facility or a manufacturing or
 225 telecommunications support facility in this state in a tier 1 county designated pursuant to
 226 Code Section 48-7-40, there shall be allowed a credit against the tax imposed under this
 227 article in an amount equal to 5 percent of the cost of all qualified investment property
 228 purchased or acquired by the taxpayer in such year, subject to the conditions and
 229 limitations set forth in this Code section. In the event such qualified investment property
 230 purchased or acquired by the taxpayer in such year consists of recycling machinery or
 231 equipment, a recycling manufacturing facility, pollution control or prevention machinery
 232 or equipment, a pollution control or prevention facility, or the conversion from defense to
 233 domestic production, the amount of such credit shall be equal to 8 percent.

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

236 (1) In order to qualify as a basis for the credit, the investment in qualified investment
 237 property must occur no sooner than January 1, 1995. The credit may be taken beginning
 238 with the tax year immediately following the tax year in which the qualified investment
 239 property having an aggregate cost in excess of \$50,000.00 is purchased or acquired by
 240 the taxpayer; provided, however, that for tax years beginning on or after January 1, 2020,
 241 the credit may only be taken beginning with the tax year immediately following the tax
 242 year in which the qualified investment property having an aggregate cost in excess of
 243 \$100,000.00 is purchased or acquired by the taxpayer. For every year in which a

244 taxpayer claims the credit, the taxpayer shall attach a schedule to the taxpayer's Georgia
245 income tax return which will set forth the following information, as a minimum:

- 246 (A) A description of the project;
- 247 (B) The amount of qualified investment property acquired during the taxable year;
- 248 (C) The amount of tax credit claimed for the taxable year;
- 249 (D) The amount of qualified investment property acquired in prior taxable years;
- 250 (E) Any tax credit utilized by the taxpayer in prior taxable years;
- 251 (F) The amount of tax credit carried over from prior years;
- 252 (G) The amount of tax credit utilized by the taxpayer in the current taxable year; and
- 253 (H) The amount of tax credit to be carried over to subsequent tax years;

254 (2)(A) Any credit claimed under this Code section but not used in any taxable year
255 may be carried forward for ten years from the close of the taxable year in which the
256 qualified investment property was acquired, provided that such qualified investment
257 property remains in service;

258 (B)(i) The credit established by this Code section taken in any one taxable year shall
259 be limited to an amount not greater than 50 percent of the taxpayer's state income tax
260 liability which is attributable to income derived from operations in this state for that
261 taxable year.

262 (ii) Notwithstanding division (i) of this subparagraph, for credit earned pursuant to
263 this Code section from purchases of qualified investment property for a
264 manufacturing or telecommunications facility in a rural county made on or after
265 January 1, 2020, such credit shall:

266 (I) First be applied to such taxpayer's state income tax liability which is attributable
267 to income derived from operations in this state for that taxable year, limited to 50
268 percent of such liability before application of such credit; and

269 (II) If the amount of such credit exceeds the limit set forth in subdivision (I) of this
270 division, the excess may be taken as a credit of up to \$1 million for any one taxable
271 year against such taxpayer's quarterly or monthly payments under Code
272 Section 48-7-103, provided that such \$1 million limit shall be reduced by any
273 amount taken by such taxpayer pursuant to subdivision (c)(2)(B)(ii)(II) of Code
274 Section 48-7-40.3. Each employee for whom an employer receives credit against
275 such employer's quarterly or monthly payment under Code Section 48-7-103 shall
276 receive credit against his or her income tax liability under Code Section 48-7-20 for
277 the corresponding taxable year for the full amount which would be credited against
278 such liability prior to the application of the credit provided for in this paragraph.
279 Credits against quarterly or monthly payments under Code Section 48-7-103 and

280 credits against liability under Code Section 48-7-20 established by this
281 subparagraph shall not constitute income to the employee;
282 provided, however, that credit allowed and used pursuant to subdivision (II) of this
283 division and pursuant to subdivision (c)(2)(B)(ii)(II) of Code Section 48-7-40.3 shall
284 not exceed \$10 million in aggregate for all taxpayers for any calendar year. The
285 commissioner shall establish an application process to ensure that the \$10 million
286 aggregate maximum and the \$1 million per taxpayer maximum are not exceeded. If
287 applications for such credit exceed \$10 million for the calendar year, the commissioner
288 shall allow for the credit to be applied to all eligible applicants in prorated amounts
289 among such applicants, not to exceed \$10 million for the calendar year.

290 (C) The sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new
291 eligibility in any succeeding taxpayer, but any unused credit may be transferred and
292 continued by any transferee of the taxpayer;

293 (2.1)(A) Any credit claimed prior to January 1, 2020, pursuant to this Code section by
294 a taxpayer that remains unused by such taxpayer may be applied pursuant to
295 subparagraph (B) of this paragraph for any taxable year beginning on or after
296 January 1, 2020, for which such credit may be carried forward pursuant to
297 paragraph (2) of this subsection provided that within a single taxable year beginning on
298 or after January 1, 2020, such taxpayer:

299 (i) Maintains within rural counties at least 100 full-time employee jobs as such term
300 is defined in Code Section 48-7-40.24; and

301 (ii) Purchases or acquires at least \$5 million of qualified investment property for
302 manufacturing or telecommunications facilities within rural counties.

303 (B) Subject to the requirements established by subparagraph (A) of this paragraph, a
304 taxpayer may elect to apply such credit that has been carried forward as allowed
305 pursuant to division (ii) of subparagraph (B) of paragraph (2) of this Code section.

306 (C)(i) Qualified investment property purchased or acquired in connection with
307 division (ii) of subparagraph (A) of this paragraph may be eligible for credit granted
308 under subsection (b) of this Code section, provided that the conditions for such credit
309 are met independently of this paragraph. Any such new credit earned shall be applied
310 as provided in paragraph (2) of this subsection.

311 (ii) For the taxable year in which the jobs that are required to be maintained in
312 division (i) of subparagraph (A) of this subsection are maintained, such jobs shall not
313 be eligible to be used or claimed as the basis for any other tax credit or benefit
314 allowed by state law.

315 (D) This paragraph shall not extend the carry forward period for any credit.

316 (E) This paragraph shall stand repealed by operation of law on the last moment of
 317 December 31, 2024;

318 (3) In the initial year in which the taxpayer claims the credit granted in subsection (b) of
 319 this Code section, the taxpayer shall include in the description of the project required by
 320 subparagraph (A) of paragraph (1) of this subsection, information which demonstrates
 321 that the project includes the acquisition of qualified investment property having an
 322 aggregate cost in excess of ~~\$50,000.00~~ the amount required by paragraph (1) of this
 323 subsection;

324 (4) Any lease for a period of five years or longer of any real or personal property used
 325 in a new or expanded manufacturing or telecommunications facility which would
 326 otherwise constitute qualified investment property shall be treated as the purchase or
 327 acquisition of qualified investment property by the lessee. The taxpayer may treat the full
 328 value of the leased property as qualified investment property in the taxable year in which
 329 the lease becomes binding on the lessor and the taxpayer if all other conditions of this
 330 subsection have been met; and

331 (5) The utilization of the credit granted in subsection (b) of this Code section shall have
 332 no effect on the taxpayer's ability to claim depreciation for tax purposes on the assets
 333 acquired by the taxpayer, nor shall the credit have any effect on the taxpayer's basis in
 334 such assets for the purpose of depreciation.

335 ~~(d)(1) Except as otherwise provided in paragraph (2) of this subsection, no~~ No taxpayer
 336 shall be authorized to claim on a tax return for a given project the credit provided for in this
 337 Code section if such taxpayer claims on such tax return any of the credits authorized under
 338 Code Section 48-7-40 or 48-7-40.1.

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

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

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

SECTION 2-2.

350

351 Said article is further amended in Code Section 48-7-40.3, relating to tax credits for existing
 352 manufacturing and telecommunications facilities in tier 2 counties and conditions and
 353 limitations, by adding a new paragraph to subsection (a) and by revising subsection (c) as
 354 follows:

355 "(7) 'Rural county' means a county that has a population of less than 50,000 with 10
 356 percent or more of such population living in poverty based upon the most recent, reliable,
 357 and applicable data published by the United States Bureau of the Census. On or before
 358 December 31 of each year, the commissioner of the Department of Community Affairs
 359 shall publish a list of such counties."

360 "(c) The credit granted under subsection (b) of this Code section shall be subject to the
 361 following conditions and limitations:

362 (1) In order to qualify as a basis for the credit, the investment in qualified investment
 363 property must occur no sooner than January 1, 1995. The credit may be taken beginning
 364 with the tax year immediately following the tax year in which the qualified investment
 365 property having an aggregate cost in excess of \$50,000.00 is purchased or acquired by
 366 the taxpayer; provided, however, that for tax years beginning on or after January 1, 2020,
 367 the credit may only be taken beginning with the tax year immediately following the tax
 368 year in which the qualified investment property having an aggregate cost in excess of
 369 \$100,000.00 is purchased or acquired by the taxpayer. For every year in which a
 370 taxpayer claims the credit, the taxpayer shall attach a schedule to the taxpayer's Georgia
 371 income tax return which will set forth the following information, as a minimum:

372 (A) A description of the project;

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

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

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

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

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

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

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

380 (2)(A) Any credit claimed under this Code section but not used in any taxable year
 381 may be carried forward for ten years from the close of the taxable year in which the
 382 qualified investment property was acquired, provided that such qualified investment
 383 property remains in service.

384 (B)(i) The credit established by this Code section taken in any one taxable year shall
 385 be limited to an amount not greater than 50 percent of the taxpayer's state income tax

386 liability which is attributable to income derived from operations in this state for that
387 taxable year.

388 (ii) Notwithstanding division (i) of this subparagraph, for credit earned pursuant to
389 this Code section from purchases of qualified investment property for a
390 manufacturing or telecommunications facility in a rural county made on or after
391 January 1, 2020, such credit shall:

392 (I) First be applied to such taxpayer's state income tax liability which is attributable
393 to income derived from operations in this state for that taxable year, limited to 50
394 percent of such liability before application of such credit; and

395 (II) If the amount of such credit exceeds the limit set forth in subdivision (I) of this
396 division, the excess may be taken as a credit of up to \$1 million for any one taxable
397 year against such taxpayer's quarterly or monthly payments under Code
398 Section 48-7-103, provided that such \$1 million limit shall be reduced by any
399 amount taken by such taxpayer pursuant to subdivision (c)(2)(B)(ii)(II) of Code
400 Section 48-7-40.2. Each employee for whom an employer receives credit against
401 such employer's quarterly or monthly payment under Code Section 48-7-103 shall
402 receive credit against his or her income tax liability under Code Section 48-7-20 for
403 the corresponding taxable year for the full amount which would be credited against
404 such liability prior to the application of the credit provided for in this paragraph.
405 Credits against quarterly or monthly payments under Code Section 48-7-103 and
406 credits against liability under Code Section 48-7-20 established by this
407 subparagraph shall not constitute income to the employee;

408 provided, however, that credit allowed and used pursuant to subdivision (II) of this
409 division and pursuant to subdivision (c)(2)(B)(ii)(II) of Code Section 48-7-40.2 shall
410 not exceed \$10 million in aggregate for all taxpayers for any calendar year. The
411 commissioner shall establish an application process to ensure that the \$10 million
412 aggregate maximum and the \$1 million per taxpayer maximum are not exceeded. If
413 applications for such credit exceed \$10 million for the calendar year, the commissioner
414 shall allow for the credit to be applied to all eligible applicants in prorated amounts
415 among such applicants, not to exceed \$10 million for the calendar year.

416 (C) The sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new
417 eligibility in any succeeding taxpayer, but any unused credit may be transferred and
418 continued by any transferee of the taxpayer;

419 (2.1)(A) Any credit claimed prior to January 1, 2020, pursuant to this Code section by
420 a taxpayer that remains unused by such taxpayer may be applied pursuant to
421 subparagraph (B) of this paragraph for any taxable year beginning on or after
422 January 1, 2020, for which such credit may be carried forward pursuant to

423 paragraph (2) of this subsection provided that within a single taxable year beginning on
424 or after January 1, 2020, such taxpayer:

425 (i) Maintains within rural counties at least 100 full-time employee jobs as such term
426 is defined in Code Section 48-7-40.24; and

427 (ii) Purchases or acquires at least \$10 million of qualified investment property for
428 manufacturing or telecommunications facilities within rural counties.

429 (B) Subject to the requirements established by subparagraph (A) of this paragraph, a
430 taxpayer may elect to apply such credit that has been carried forward as allowed
431 pursuant to division (ii) of subparagraph (B) of paragraph (2) of this Code section.

432 (C)(i) Qualified investment property purchased or acquired in connection with
433 division (ii) of subparagraph (A) of this paragraph may be eligible for credit granted
434 under subsection (b) of this Code section, provided that the conditions for such credit
435 are met independently of this paragraph. Any such new credit earned shall be applied
436 as provided in paragraph (2) of this subsection.

437 (ii) For the taxable year in which the jobs that are required to be maintained in
438 division (i) of subparagraph (A) of this subsection are maintained, such jobs shall not
439 be eligible to be used or claimed as the basis for any other tax credit or benefit
440 allowed by state law.

441 (D) This paragraph shall not extend the carry forward period for any credit.

442 (E) This paragraph shall stand repealed by operation of law on the last moment of
443 December 31, 2024;

444 (3) In the initial year in which the taxpayer claims the credit granted in subsection (b) of
445 this Code section, the taxpayer shall include in the description of the project required by
446 subparagraph (A) of paragraph (1) of this subsection information which demonstrates that
447 the project includes the acquisition of qualified investment property having an aggregate
448 cost in excess of ~~\$50,000.00~~ the amount required by paragraph (1) of this subsection;

449 (4) Any lease for a period of five years or longer of any real or personal property used
450 in a new or expanded manufacturing or telecommunications facility which would
451 otherwise constitute qualified investment property shall be treated as the purchase or
452 acquisition of qualified investment property by the lessee. The taxpayer may treat the full
453 value of the leased property as qualified investment property in the taxable year in which
454 the lease becomes binding on the lessor and the taxpayer if all other conditions of this
455 subsection have been met; and

456 (5) The utilization of the credit granted in subsection (b) of this Code section shall have
457 no effect on the taxpayer's ability to claim depreciation for tax purposes on the assets
458 acquired by the taxpayer, nor shall the credit have any effect on the taxpayer's basis in
459 such assets for the purpose of depreciation."

SECTION 2-3.

460

461 Said article is further amended in Code Section 48-7-40.4, relating to tax credits for existing
462 manufacturing and telecommunications facilities or manufacturing and telecommunications
463 support facilities in tier 3 or 4 counties and conditions and limitations, by revising
464 subsection (c) as follows:

465 "(c) The credit granted under subsection (b) of this Code section shall be subject to the
466 following conditions and limitations:

467 (1) In order to qualify as a basis for the credit, the investment in qualified investment
468 property must occur no sooner than January 1, 1995. The credit may be taken beginning
469 with the tax year immediately following the tax year in which the qualified investment
470 property having an aggregate cost in excess of \$50,000.00 is purchased or acquired by
471 the taxpayer; provided, however, that for tax years beginning on or after January 1, 2020,
472 the credit may only be taken beginning with the tax year immediately following the tax
473 year in which the qualified investment property having an aggregate cost in excess of
474 \$100,000.00 is purchased or acquired by the taxpayer. For every year in which a
475 taxpayer claims the credit, the taxpayer shall attach a schedule to the taxpayer's Georgia
476 income tax return which will set forth the following information, as a minimum:

- 477 (A) A description of the project;
478 (B) The amount of qualified investment property acquired during the taxable year;
479 (C) The amount of tax credit claimed for the taxable year;
480 (D) The amount of qualified investment property acquired in prior taxable years;
481 (E) Any tax credit utilized by the taxpayer in prior taxable years;
482 (F) The amount of tax credit carried over from prior years;
483 (G) The amount of tax credit utilized by the taxpayer in the current taxable year; and
484 (H) The amount of tax credit to be carried over to subsequent tax years;

485 (2) Any credit claimed under this Code section but not used in any taxable year may be
486 carried forward for ten years from the close of the taxable year in which the qualified
487 investment property was acquired, provided that such qualified investment property
488 remains in service. The credit established by this Code section taken in any one taxable
489 year shall be limited to an amount not greater than 50 percent of the taxpayer's state
490 income tax liability which is attributable to income derived from operations in this state
491 for that taxable year. The sale, merger, acquisition, or bankruptcy of any taxpayer shall
492 not create new eligibility in any succeeding taxpayer, but any unused credit may be
493 transferred and continued by any transferee of the taxpayer;

494 (3) In the initial year in which the taxpayer claims the credit granted in subsection (b) of
495 this Code section, the taxpayer shall include in the description of the project required by
496 subparagraph (A) of paragraph (1) of this subsection information which demonstrates that

497 the project includes the acquisition of qualified investment property having an aggregate
498 cost in excess of ~~\$50,000.00~~ the amount required by paragraph (1) of this subsection;
499 (4) Any lease for a period of five years or longer of any real or personal property used
500 in a new or expanded manufacturing or telecommunications facility which would
501 otherwise constitute qualified investment property shall be treated as the purchase or
502 acquisition of qualified investment property by the lessee. The taxpayer may treat the full
503 value of the leased property as qualified investment property in the taxable year in which
504 the lease becomes binding on the lessor and the taxpayer if all other conditions of this
505 subsection have been met; and
506 (5) The utilization of the credit granted in subsection (b) of this Code section shall have
507 no effect on the taxpayer's ability to claim depreciation for tax purposes on the assets
508 acquired by the taxpayer, nor shall the credit have any effect on the taxpayer's basis in
509 such assets for the purpose of depreciation."

510

PART III

511

SECTION 3-1.

512 This Act shall become effective on July 1, 2019, and shall be applicable to taxable years
513 beginning on or after January 1, 2020.

514

SECTION 3-2.

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