

The House Committee on Ways and Means offers the following substitute to SB 6:

**A BILL TO BE ENTITLED
AN ACT**

- 1 To amend Article 3 of Chapter 5 of Title 28 of the Official Code of Georgia Annotated,
- 2 relating to fiscal bills generally, so as to provide for independent economic analyses to be
- 3 procured by the Department of Audits and Accounts for certain tax benefits upon request by
- 4 the chairpersons of the House Committee on Ways and Means and the Senate Finance
- 5 Committee; to provide a short title; to provide for limits; to provide for summaries to be
- 6 attached to related fiscal notes; to provide for related matters; to amend Title 48 of the
- 7 Official Code of Georgia Annotated, relating to revenue and taxation, so as to provide for a
- 8 tax credit for medical equipment and supplies manufacturers and pharmaceutical and
- 9 medicine manufacturers; to provide for definitions; to provide for conditions and limitations
- 10 on certain tax credits; to provide for tax credits for high-impact aerospace defense projects;
- 11 to permit tax credits for port traffic increases to be applied against payroll withholding; to
- 12 revise a job tax credit; to allow such tax credit to be taken in conjunction with certain other
- 13 tax credits; to revise a manufacturing tax credit; to change jobs limit and revise the
- 14 requirements for such tax credit for certain projects; to change the aggregate credit cap for
- 15 certain projects; to amend Code Section 33-1-25 of the Official Code of Georgia Annotated,
- 16 relating to the "Georgia Agribusiness and Rural Jobs Act," so as to provide for a second
- 17 round of funding and period for applications; to increase an application fee and provide for
- 18 an annual maintenance fee; change certain reporting requirements; to revise and provide for

19 definitions; to amend Code Section 48-7-40.34 of the Official Code of Georgia Annotated,
20 relating to tax credit for Class III railroads and reporting, so as to extend an income tax credit
21 for expenditures on the maintenance of railroad track owned or leased by Class III railroads;
22 to amend Part 1 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia
23 Annotated, relating to general provisions regarding sales and use taxes, so as to extend the
24 sunset date for the exemption for projects of regional significance; to exempt sales of tickets,
25 fees, or charges for admission to certain fine arts performances or exhibitions from sales and
26 use taxes; to provide for a definition; to provide for automatic repeal; to renew a sales tax
27 exemption for maintenance and replacement parts used in machinery or equipment that is
28 used to mix, agitate, and transport freshly mixed concrete; to extend the sunset provision for
29 an exemption for sales taxes on certain tangible personal property sold or used to maintain,
30 refit, or repair a boat during a single event; to provide for related matters; to provide for short
31 titles; to provide for effective dates and applicability; to repeal conflicting laws; and for other
32 purposes.

33 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

34 **PART I**
35 **SECTION 1-1.**

36 Part I of this Act shall be known and may be cited as the "Tax Credit Return on Investment
37 Act of 2021." Parts II through IV of this Act shall be known and may be cited as the
38 "Georgia Economic Renewal Act of 2021." Part V of this Act shall be known and may be
39 cited as the "Georgia Economic Recovery Act of 2021."

SECTION 1-2.

41 Article 3 of Chapter 5 of Title 28 of the Official Code of Georgia Annotated, relating to fiscal
42 bills generally, is amended by adding a new Code section to read as follows:

43 "28-5-41.1.

44 (a) An economic analysis shall include, but not be limited to, a good faith estimate as a
45 result of the law or proposed law, on an annual basis for five years thereafter, of the
46 following, on both a direct and indirect basis:

47 (1) Net change in state revenue;

48 (2) Net change in state expenditures, which shall include, but not be limited to, costs of
49 administering the bill;

50 (3) Net change in economic activity; and

51 (4) If applicable, any net change in public benefit.

52 (b) On or before May 1 of each year, the chairperson of the House Committee on Ways
53 and Means and the chairperson of the Senate Finance Committee may each request up to
54 five economic analyses, which requests shall be transmitted to the Department of Audits
55 and Accounts which may contract with one or more independent auditors to complete all
56 such analyses on or before December 1 of the year in which such analysis was requested.
57 Each such request shall be limited to one existing provision of law or proposed law and
58 shall specify one particular exemption, exclusion, or deduction from the base of a tax;
59 credit against a tax; deferral of a tax; a rebate of taxes paid; tax abatement; or preferential
60 tax rate to be analyzed.

61 (c) Copies of each completed economic analysis shall be provided to the House Budget
62 and Research Office and the Senate Budget and Evaluation Office.

63 (d) If a fiscal note is requested pursuant to Code Section 28-5-42 and a relevant economic
64 analysis has been conducted within one year of such request, the Department of Audits and
65 Accounts may prepare a summary of such economic analysis and attach it with the
66 requested fiscal note."

67

PART II

68

SECTION 2-1.

69 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
70 amended by adding a new Code section to read as follows:

71 "48-7-40.1B.

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

73 (1) 'Establishment' means an economic unit at a single physical location where business
is conducted or where services or industrial operations are performed.

75 (2) 'Medical equipment and supplies manufacturer' means any business which is engaged
in the manufacturing of medical equipment and supplies in this state. Such term shall be
limited to establishments classified under the North American Industry Classification
System (NAICS) Industry Code 3391 - Medical Equipment and Supplies Manufacturing.
79 Such term shall not include retail businesses that sell medical equipment or supplies.

80 (3) 'Pharmaceutical and medicine manufacturer' means any business which is engaged
in the manufacturing of pharmaceuticals or medicine in this state. Such term shall be
limited to establishments classified under the North American Industry Classification
System (NAICS) Industry Code 3254 - Pharmaceutical and Medicine Manufacturing.
84 Such term shall not include retail businesses that sell pharmaceuticals or medicine.

85 (b)(1) When any medical equipment and supplies manufacturer or pharmaceutical and
medicine manufacturer is qualified to claim a job tax credit pursuant to Code Section
48-7-40 or 48-7-40.1, for a qualifying job created on or after July 1, 2021, there shall be
allowed an additional \$1,250.00 per job tax credit against the tax imposed under this
article for those qualifying jobs to the extent that they are engaged in the qualifying
activities of manufacturing medical equipment or supplies or manufacturing
pharmaceuticals or medicine in this state during the taxable year. Such medical
92 equipment and supplies manufacturer or pharmaceutical and medicine manufacturer shall

be eligible for such additional per job tax credit at an individual establishment of the business. If more than one business activity is conducted at an establishment, then only the jobs engaged in the qualifying activities of manufacturing medical equipment or supplies or manufacturing pharmaceuticals or medicine in this state shall be eligible for such additional per job tax credit.

(2) The additional tax credit provided for in paragraph (1) of this subsection shall be claimed separately from the job tax credit under Code Section 48-7-40 or 48-7-40.1 but shall, except as provided in this Code section, be allowed subject to the conditions and limitations set forth in Code Section 48-7-40 or 48-7-40.1 and shall be in addition to the credit allowed under Code Section 48-7-40 or 48-7-40.1; provided, however, the amount allowed to offset taxes imposed by this article shall be 100 percent; and provided, further, that when such tax credit exceeds a business enterprise's liability for taxes imposed by this article in a taxable year, the excess may be taken as a credit against such business enterprise's quarterly or monthly payment under Code Section 48-7-103 in the same manner as provided under Code Section 48-7-40 or 48-7-40.1 but not subject to the dollar limitations provided therein. Additionally, such tax credit shall be disallowed during any year in which a business enterprise does not qualify as a medical equipment and supplies manufacturer or as a pharmaceutical and medicine manufacturer.

(3) The additional tax credit provided for in paragraph (1) of this subsection may be used in conjunction with the tax credit provided for under Code Section 48-7-40.15.

(c) The additional tax credit provided for under paragraph (1) of subsection (b) of this Code section shall be subject to the following conditions and limitations:

(1) Any tax credit claimed under subsection (b) of this Code section but not used in any taxable year, may be carried forward for ten years from the close of the taxable year in which the qualified jobs were established; and

(2) No taxpayer shall be eligible for the tax credit provided for under subsection (b) of this Code section for any job for which the taxpayer claims the tax credit provided for

under Code Section 48-7-40.1A, or for any job claimed pursuant to Code Section 48-7-40
or 48-7-40.1 prior to July 1, 2021.

(d) This Code Section shall be effective as of July 1, 2021 and shall be applicable to taxable years beginning on or after January 1, 2021."

SECTION 2-2.

Said title is further amended in Code Section 48-7-40.1A, relating to job tax credit for PPE manufacturers, by adding a new paragraph in subsection (c) to read as follows:

"(3) No taxpayer shall be eligible for the tax credit provided for under subsection (b) of this Code section for any job for which the taxpayer claims the tax credit provided for under Code Section 48-7-40.1B."

SECTION 2-3.

Said title is further amended by revising paragraphs (2) and (3) of subsection (e) of Code Section 48-7-40.15, relating to alternative tax credits for base year port traffic increases, and conditions and limitations, as follows:

"(2)(A) Any tax credit claimed under subsection (b) of this Code section but not used in any taxable year may be carried forward for ten years from the close of the taxable year in which the qualified jobs were established, provided that the increase in port traffic remains above the minimum levels established in Code Section 48-7-40 or 48-7-40.1 and this Code section, respectively. For any tax credit earned pursuant to subsection (b) of this Code section in a taxable year beginning on or after January 1, 2021, when such tax credit exceeds a business enterprise's liability for taxes imposed by this article in a taxable year, the excess may be taken as a credit against such business enterprise's quarterly or monthly payment under Code Section 48-7-103 in the same manner as provided under Code Section 48-7-40 or 48-7-40.1 but not subject to the dollar limitations provided therein.

145 (B) Any tax credit claimed under subsection (c) of this Code section in lieu of Code
146 Section 48-7-40.2, 48-7-40.3, or 48-7-40.4 but not used in any taxable year may be
147 carried forward for ten years from the close of the taxable year in which the qualified
148 investment property was acquired, provided that the increase in port traffic remains
149 above the minimum level established in this Code section and the qualified investment
150 property remains in service.

151 (3)(A) Any tax credit claimed under subsection (c) of this Code section in lieu of Code
152 Section 48-7-40.7, 48-7-40.8, or 48-7-40.9 shall be allowed for the ensuing ten taxable
153 years following the taxable year the qualified investment property was first placed in
154 service, provided that the increase in port traffic remains above the minimum level
155 established in this Code section and the qualified investment property remains in
156 service.

157 (B) The tax credit established by this Code section in lieu of Code Section 48-7-40.2,
158 48-7-40.3, or 48-7-40.4 and taken in any one taxable year shall be limited to an amount
159 not greater than 50 percent of the taxpayer's state income tax liability which is
160 attributable to income derived from operations in this state for that taxable year;
161 provided, however, that for such tax credits earned in a taxable year beginning on or
162 after January 1, 2021, the amount allowed to offset taxes imposed by this article shall
163 be 100 percent; and provided, further, that when such tax credit exceeds a business
164 enterprise's liability for taxes imposed by this article in a taxable year, the excess may
165 be taken as a credit against such business enterprise's quarterly or monthly payment
166 under Code Section 48-7-103 in the same manner as provided under Code Section
167 48-7-40 or 48-7-40.1 but not subject to the dollar limitations provided therein.

168 (C) The tax credit established by this Code section in addition to that pursuant to Code
169 Section 48-7-40 or 48-7-40.1 and taken in any one taxable year shall be limited to an
170 amount not greater than 50 percent of the taxpayer's state income tax liability which is
171 attributable to income derived from operations in this state for that taxable year;

provided, however, that for such tax credits earned in a taxable year beginning on or after January 1, 2021, the amount allowed to offset taxes imposed by this article shall be 100 percent; and provided, further, that when such tax credit exceeds a business enterprise's liability for taxes imposed by this article in a taxable year, the excess may be taken as a credit against such business enterprise's quarterly or monthly payment under Code Section 48-7-103 in the same manner as provided under Code Section 48-7-40 or 48-7-40.1 but not subject to the dollar limitations provided therein.

(D) The sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new eligibility for any succeeding taxpayer, but any unused credit may be transferred and continued by any transferee of the taxpayer."

SECTION 2-4.

Said title is further amended by revising subsections (g) and (i) of Code Section 48-7-40.24 of the Official Code of Georgia Annotated, relating to conditions for taking job tax credit by business enterprises and calculating credit, as follows:

"(g) To qualify for the credit provided by this Code section, a new full-time job must be created by the close of the seventh taxable year following the business enterprise's withholding start date, unless the purchase or acquisition of qualified investment property is made as provided in paragraph (5) of subsection (a) of this Code section, in which case a new full-time job must be created by the close of the eighth taxable year following the business enterprise's withholding start date based on a \$600 million qualified investment or the end of the tenth taxable year based on an \$800 million qualified investment. ~~In no event may a credit be claimed under this Code section for more than 4,500 new full-time employee jobs created by any one project; provided, however, that the taxpayer may claim the credits provided by Code Sections 48-7-40 and 48-7-40.1 for any such additional jobs if the taxpayer meets the terms and conditions thereof.~~"

"(i)(1) Except as provided in subsection (g) of this Code section and paragraph (2) of this subsection, a taxpayer who is entitled to and takes credits provided by this Code section for a qualified project shall not be allowed to take any of the credits authorized by Code Section 48-7-40, 48-7-40.1, 48-7-40.2, 48-7-40.3, 48-7-40.4, 48-7-40.6, 48-7-40.7, 48-7-40.8, 48-7-40.9, 48-7-40.10, ~~48-7-40.11~~, 48-7-40.15, 48-7-40.17, or 48-7-40.18 for jobs, investments, child care, or ground-water usage shifts created by, arising from, related to, or connected in any way with the same project. Provided such taxpayer otherwise qualifies, such taxpayer may take any credit authorized by Code Section 48-7-40.5 for the costs of retraining an employee located at the site or sites of such project or the facility or facilities resulting therefrom, but only for costs incurred more than five years after the date the facility or facilities first become operational.

(2) On and after July 1, 2021, a taxpayer who is entitled to and takes credits authorized by this Code section for a high-impact aerospace defense project as such term is defined in Code Section 48-7-40.25 may also take the credits authorized by Code Section 48-7-40.17 for such project; provided, however, that the taxpayer may not take the credits authorized by this Code section and 48-7-40.17 with respect to such project in the same taxable year."

SECTION 2-5.

Said title is further amended by revising Code Section 48-7-40.25, relating to conditions for credit for business enterprises with existing manufacturing facilities and calculating credit, as follows:

"48-7-40.25.

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

(1) 'Business enterprise' means any business or the headquarters of any such business which is engaged in manufacturing. Such term shall not include retail businesses.

(2) 'Force majeure' means any:

- 223 (A) Explosions, implosions, fire, conflagrations, accidents, or contamination;
224 (B) Unusual and unforeseeable weather conditions such as floods, torrential rain, hail,
225 tornadoes, hurricanes, lightning, or other natural calamities or acts of God;
226 (C) Acts of war (whether or not declared), carnage, blockade, or embargo;
227 (D) Acts of public enemy, acts or threats of terrorism or threats from terrorists, riot,
228 public disorder, or violent demonstrations;
229 (E) Strikes or other labor disturbances; or
230 (F) Expropriation, requisition, confiscation, impoundment, seizure, nationalization, or
231 compulsory acquisition of the site of a qualified project or any part thereof;

232 but such term shall not include any event or circumstance that could have been prevented,
233 overcome, or remedied in whole or in part by the taxpayer through the exercise of
234 reasonable diligence and due care, nor shall such term include the unavailability of funds.

235 (3) 'Full-time employee' means an individual holding a full-time employee job.

236 (4) 'Full-time employee job' and 'full-time job' mean employment of an individual which:

237 (A)(i) With respect to a qualified project, is located in this state at the
238 manufacturing facility resulting from such a qualified project; and

239 (ii) With respect to a high-impact aerospace defense project certified pursuant to
240 paragraph (2) of subsection (b) on or after July 1, 2021, is located in this state and
241 results from such project.

242 (B) Involves a regular work week of 35 hours or more;

243 (C) Has no predetermined end date; and

244 (D) Pays at or above the average wage of the county with the lowest average wage in
245 the state, as reported in the most recently available annual issue of the Georgia
246 Employment and Wages Averages Report of the Department of Labor.

247 For purposes of this paragraph, leased employees will be considered employees of the
248 company using their services, and such persons may be counted in determining the
249 company's credits under this Code section if their employment otherwise meets the

250 definition of full-time job contained herein. In addition, an individual's employment shall
251 not be deemed to have a predetermined end date solely by virtue of a mandatory
252 retirement age set forth in a company policy of general application. The employment of
253 any individual in a bona fide executive, administrative, or professional capacity, within
254 the meaning of Section 13 of the federal Fair Labor Standards Act of 1938, as amended,
255 29 U.S.C. Section 213(a)(1), as such act existed on January 1, 2002, shall not be deemed
256 to have a predetermined end date solely by virtue of the fact that such employment is
257 pursuant to a fixed-term contract, provided that such contract is for a term of not less than
258 one year.

259 (4.1) 'High-impact aerospace defense project' means a qualified project with the
260 additional limitations that it is:

261 (A) To be constructed by a business enterprise that is a prime aerospace defense
262 contractor with greater than 40 percent of its revenues derived from sales to the United
263 States government in its most recently completed tax year; and
264 (B) Certified by the commissioner of economic development as materially supportive
265 of the mission of the Georgia Joint Defense Commission and the Governor's Defense
266 Initiative. In making such a certification, the commissioner shall consider whether the
267 project will support the goals of the Georgia Joint Defense Commission set forth in
268 subsections (2), (3), and (4) of Code Section 20-4-121.

269 (5) 'Investment requirement' means the requirement that:

270 (A) With respect to a qualified project, a minimum of \$800 million in qualified
271 investment property shall have been purchased or acquired for use in such a qualified
272 project and be in service; or
273 (B) With respect to a high-impact aerospace defense project certified pursuant to
274 paragraph (2) of subsection (b) on or after July 1, 2021, a minimum of \$500 million in
275 qualified investment property shall have been purchased or acquired for use in such
276 project and be in service.

277 (6) 'Job maintenance requirement' means the requirement that the monthly average
278 number of full-time employees employed by the business enterprise during the first 60
279 months of the recapture period must equal or exceed 90 percent of the job requirement.

280 (7) 'Job requirement' means the requirement that:

281 (A) With respect to a qualified project, the number of full-time employees must equal
282 or exceed 1,800; or

283 (B) With respect to a high-impact aerospace defense project certified pursuant to
284 paragraph (2) of subsection (b) on or after July 1, 2021, the number of full-time
285 employees must equal or exceed 1,000.

286 (8) 'Qualified investment property' means all real and personal property purchased or
287 acquired by a taxpayer for use in a qualified project, including, but not limited to,
288 amounts expended on land acquisition, improvements, buildings, building improvements,
289 and machinery and equipment to be used in the manufacturing facility.

290 (9) 'Qualified project' means the construction of a new manufacturing facility in this
291 state. For purposes of this paragraph, the term 'manufacturing facility' means a single
292 facility, including contiguous parcels of land, improvements to such land, buildings,
293 building improvements, and any machinery or equipment that is used in the process of
294 making, fabricating, constructing, forming, or assembling a product from components or
295 from raw, unfinished, or semifinished materials, and any support facility. For purposes
296 of this paragraph, the term 'support facility' means any warehouses, distribution centers,
297 storage facilities, research and development facilities, laboratories, repair and
298 maintenance facilities, corporate offices, sales or marketing offices, computer operations
299 facilities, or administrative offices that are contiguous to the manufacturing facility that
300 results from a qualified project, constructed or expanded as part of the same such project,
301 and designed primarily for activities supporting the manufacturing operations at such
302 manufacturing facility.

303 (10) 'Recapture period' means the period of ten consecutive taxable years that
304 commences after the taxable year in which the taxpayer has met both the investment
305 requirement and the job requirement.

306 (b) A business enterprise that has operated an existing manufacturing facility in this state
307 for the immediately three preceding years and that is planning a qualified project shall be
308 allowed to take the credit provided by this Code section under the following conditions:

309 (1) An application is filed with the commissioner that:

310 (A) Describes the qualified project to be undertaken by the business enterprise,
311 including when such project will commence;

312 (B) Certifies that such project will meet the investment requirement and the job
313 requirement prescribed by this Code section, stating when the business enterprise
314 expects to meet such requirements; and

315 (C) With respect to a high-impact aerospace defense project, certifies that the taxpayer
316 will purchase or acquire a minimum of \$800 million in qualified investment property
317 and will employ at least 1,800 full-time employees, stating when the business enterprise
318 expects to meet such requirements; and

319 (D) Certifies that during the recapture period applicable to such project the business
320 enterprise will meet the job maintenance requirement prescribed by this Code section;
321 and

322 (2) Following the commissioner's referral of the application to a panel composed of the
323 commissioner of community affairs, the commissioner of economic development, and the
324 director of the Office of Planning and Budget, said panel, after reviewing the application,
325 certifies that the new facility will have a significant beneficial economic effect on the
326 region for which it is planned. The panel shall make its determination within 30 days
327 after receipt from the commissioner of the taxpayer's application and any necessary
328 supporting documentation. Although the panel's certification may be based upon other
329 criteria, a project that meets the minimum job and investment requirements specified in

330 paragraph (1) of this subsection will have a significant beneficial economic effect on the
331 region for which it is planned if one of the following additional criteria is met:

332 (A) The full-time employee jobs ~~that will be located at the manufacturing facility~~
333 resulting from such project will pay average wages that are, as determined by the
334 Georgia Department of Labor for all jobs, for the county in question:

335 (i) Twenty percent above such average wage for projects located in tier 1 counties;
336 (ii) Ten percent above such average wage for projects located in tier 2 counties; or
337 (iii) Five percent above such average wage for projects located in tier 3 or tier 4
338 counties; or

339 (B) The project demonstrates high growth potential based upon the prior year's Georgia
340 net taxable income growth of over 20 percent from the previous year, if the taxpayer's
341 Georgia net taxable income in each of the two preceding years also grew by 20 percent
342 or more.

343 (c) Any lease for a period of five years or longer of any real or personal property used in
344 a new manufacturing facility which would otherwise constitute qualified investment
345 property shall be treated as the purchase or acquisition thereof by the lessee. The taxpayer
346 may treat the full value of the leased property as qualified investment property in the year
347 in which the lease becomes binding on the lessor and the taxpayer.

348 (d) A business enterprise whose application is approved shall be allowed a credit against
349 the tax imposed under this article in an amount equal to 6 percent of the cost of all qualified
350 investment property purchased or acquired by the business enterprise in such year, subject
351 to the conditions and limitations set forth in this Code section. Where the amount of such
352 credit exceeds a business enterprise's liability for such taxes in a taxable year, the excess
353 may be taken as a credit against such business enterprise's quarterly or monthly payment
354 under Code Section 48-7-103. The taxpayer may file an election with the commissioner
355 to take such credit against quarterly or monthly payments under Code Section 48-7-103
356 that become due before the due date of the income tax return on which such credit may be

357 claimed. In the event of such an election, the commissioner shall confirm with the taxpayer
358 a date, which shall not be later than 30 days after receipt of the taxpayer's election, when
359 the taxpayer may begin to take the credit against such quarterly or monthly payments.
360 Each employee whose employer receives credit against such business enterprise's quarterly
361 or monthly payment under Code Section 48-7-103 shall receive credit against his or her
362 income tax liability under Code Section 48-7-20 for the corresponding taxable year for the
363 full amount which would be credited against such liability prior to the application of the
364 credit provided for in this subsection. Credits against quarterly or monthly payments under
365 Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established
366 by this subsection shall not constitute income to the taxpayer.

367 (e) The credit granted under subsection (d) of this Code section shall be subject to the
368 following conditions and limitations:

369 (1) In order to qualify as a basis for the credit, the investment in qualified investment
370 property must occur no sooner than ~~April 1, 2003~~ the date of application by the taxpayer
371 for the qualified project pursuant to paragraph (1) of subsection (b) of this Code section.
372 The credit may be taken beginning with the taxable year in which the taxpayer has met
373 both the investment requirement and the job requirement, and for such first year the credit
374 may include qualified investment property purchased or acquired in prior years but after
375 ~~March 31, 2003~~ the date of application by the taxpayer for the qualified project pursuant
376 to paragraph (1) of subsection (b) of this Code section. For each year in which a taxpayer
377 claims the credit, the taxpayer shall attach a schedule to the taxpayer's Georgia income
378 tax return which will set forth the following information, as a minimum:
379

- 379 (A) A description of the qualified project;
- 380 (B) The amount of qualified investment property acquired during the taxable year;
- 381 (C) The amount of tax credit claimed for the taxable year;
- 382 (D) The amount of qualified investment property acquired in prior taxable years;

383 (E) Any tax credit previously taken by the taxpayer against Georgia income tax
384 liabilities or the taxpayer's quarterly or monthly payments under Code Section
385 48-7-103;

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

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

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

389 (I) The monthly average number of full-time jobs during the taxable year;

390 (2) Any credit claimed under this Code section but not fully used in the manner
391 prescribed in subsection (d) of this Code section may be carried forward for 15 years
392 from the close of the later of:

393 (A) The taxable year in which the qualified investment property was acquired; or

394 (B) The taxable year in which both the job requirement and investment requirement are
395 satisfied.

396 The sale, merger, acquisition, or bankruptcy of any business enterprise shall not create
397 new eligibility in any succeeding business entity but any unused investment tax credit
398 may be transferred and continued by any transferee of the business enterprise;

399 (3) In the initial year in which the taxpayer claims the credit granted in subsection (d) of
400 this Code section, the taxpayer shall include in the description of the project required by
401 subparagraph (A) of paragraph (1) of this subsection information which demonstrates that
402 the taxpayer has met both the investment requirement and project includes the acquisition
403 of qualified investment property having an aggregate cost equal to or exceeding \$800
404 million and that the job requirement was satisfied during such year; and

405 (4) The utilization of the credit granted in subsection (d) of this Code section shall have
406 no effect on the taxpayer's ability to claim depreciation for tax purposes on the assets
407 acquired by the taxpayer, nor shall the credit have any effect on the taxpayer's basis in
408 such assets for the purpose of depreciation.

409 (f)(1) Except as provided in paragraph (2) of this subsection, in no event may credits
410 exceeding \$50 million in the aggregate be claimed under this Code section with respect
411 to any one project.

412 (2) In no event shall a taxpayer claim credits exceeding \$100 million in the aggregate
413 under this Code section with respect to a high-impact aerospace defense project.

414 (g)(1) Except as provided in paragraph (2) of this subsection, a taxpayer who is
415 entitled to and takes credits provided by this Code section with respect to a qualified
416 project shall not be allowed to take any of the credits authorized by Code Section
417 48-7-40, 48-7-40.1, 48-7-40.2, 48-7-40.3, 48-7-40.4, 48-7-40.6, 48-7-40.7, 48-7-40.8,
418 48-7-40.9, 48-7-40.10, 48-7-40.11, 48-7-40.15, 48-7-40.17, 48-7-40.18, or 48-7-40.24
419 with respect to jobs, investments, child care, or ground-water usage shifts created by,
420 arising from, related to, or connected in any way with the same project. Such taxpayer
421 may take any credit authorized by Code Section 48-7-40.5 for the cost of retraining an
422 employee located at the site of such project or the manufacturing facility resulting
423 therefrom, but only with respect to costs incurred more than five years after the date the
424 manufacturing facility first becomes operational.

425 (2) A taxpayer who is entitled to and takes credits authorized by this Code section for a
426 high-impact aerospace defense project certified pursuant to paragraph (2) of subsection
427 (b) on or after July 1, 2021, may also take the credits authorized by Code Sections
428 48-7-40.17 and 48-7-40.24 for such project.

429 (h) Not more than 60 days after the close of the fifth taxable year within the recapture
430 period, the taxpayer shall file a report, using such form and providing such information as
431 the commissioner may reasonably require, concerning whether it met the job maintenance
432 requirement. If the taxpayer has failed to meet the job maintenance requirement, the
433 taxpayer will forfeit the right to all credits provided by this Code section for such project.
434 A taxpayer that forfeits such right is liable for all past taxes imposed by this article and all
435 past payments under Code Section 48-7-103 that were forgone by the state as a result of

436 the credits provided by this Code section, plus interest at the rate established by Code
437 Section 48-2-40 computed from the date such taxes or payments would have been due if
438 the credits had not been taken. No later than 90 days after notification by the commissioner
439 that the taxpayer has failed to meet the job maintenance requirement, the taxpayer shall file
440 amended income tax and withholding tax returns for all affected periods that recalculate
441 those liabilities without regard to the forfeited credits and shall pay any additional amounts
442 shown on such returns, with interest as provided herein.

443 (i) A taxpayer who fails to meet the job maintenance requirement because of force majeure
444 may petition the commissioner for relief from such requirement. Such a petition must be
445 made with and at the same time as the report required by subsection (h) of this Code
446 section. If the commissioner determines that force majeure materially affected the
447 taxpayer's ability to meet the job maintenance requirement, but that the portion of any year
448 so affected was six months or less, the commissioner shall calculate the taxpayer's monthly
449 average number of full-time employees for purposes of subsection (h) of this Code section
450 by disregarding the affected months. If the commissioner determines that the affected
451 portion of any such year was more than six months, the taxable year shall be disregarded
452 in its entirety for purposes of the job maintenance requirement and the recapture period
453 applicable to the qualified project shall be extended for an additional year.

454 (j) If the manufacturing facility resulting from a qualified project is abandoned at any time
455 during the recapture period, the taxpayer will forfeit the right to all credits provided by this
456 Code section for such project. A taxpayer that forfeits such right is liable for all past taxes
457 imposed by this article and all past payments under Code Section 48-7-103 that were
458 forgone by the state as a result of the credits provided by this Code section, plus interest
459 at the rate established by Code Section 48-2-40 computed from the date such taxes or
460 payments would have been due if the credits had not been taken. For purposes of this
461 subsection, a manufacturing facility will be considered abandoned if there is, for any reason
462 other than force majeure, a complete cessation of manufacturing operations for a period of

463 12 consecutive months or more during the recapture period. Not more than 60 days after
464 the close of the recapture period, the taxpayer shall file a report, using such form and
465 providing such information as the commissioner may require, concerning whether such an
466 abandonment occurred. No later than 90 days after notification by the commissioner that
467 an abandonment occurred, the taxpayer shall file amended income tax and withholding tax
468 returns for all affected periods that recalculate those liabilities without regard to the
469 forfeited credits and shall pay any additional amounts shown on such returns, with interest
470 as provided herein.

471 (k) Unless more time is allowed therefor by Code Section 48-7-82 or 48-2-49, the
472 commissioner may make any assessment attributable to the forfeiture of credits claimed
473 under this Code section for the periods covered by any amended returns filed by a taxpayer
474 pursuant to subsections (h) and (j) of this Code section within one year from the date such
475 returns are filed. If the taxpayer fails to file the reports or any amended return required by
476 subsection (h) and (j) of this Code section, the commissioner may assess additional tax or
477 other amounts attributable to the forfeiture of credits claimed under this Code section at
478 any time.

479 (l) The commissioner shall promulgate any rules and regulations necessary to implement
480 and administer this Code section."

PART III

SECTION 3-1.

481 Code Section 33-1-25 of the Official Code of Georgia Annotated, relating to the "Georgia
482 Agribusiness and Rural Jobs Act," is amended in subsection (b) by revising paragraphs (3)
483 and (6) and adding a new paragraph to read as follows:

484 "(1) '2021 allocation' means the second round of funding provided for in paragraph (6.1)
485 of subsection (e) of this Code section."

488 "(3) 'Capital investment' means any equity investment in a rural fund by a rural investor
489 that:

490 (A) Is acquired after July 1, 2017, at its original issuance solely in exchange for cash;
491 (B) Has 100 percent of its cash purchase price used by the rural fund to make qualified
492 investments in eligible businesses located in this state by the second anniversary of the
493 initial credit allowance date; and
494 (C) Is designated by the rural fund as a capital investment under this Code section and
495 is certified by the department pursuant to subsection (e) of this Code section. This
496 term shall include any capital investment that does not meet the provisions of
497 subsection ~~(e)(1)(A) (e)(1.3)(A)~~ of this Code section if such investment was a capital
498 investment in the hands of a prior holder."

499 "(6) 'Eligible business' means a business that, at the time of the initial qualified
500 investment in the company, ~~has less than 250 employees and its principal business~~
501 ~~operations are located in one or more rural areas in this state, provided that such business:~~

502 (A) ~~Has less than 250 employees;~~ and
503 (B)~~(i) Has its principal business operations in one or more rural areas in this state;~~
504 ~~and~~
505 (ii)(A) Produces or provides any goods or services produced in Georgia normally used
506 by farmers, ranchers, or producers and harvesters of aquatic products in their business
507 operations, or to improve the welfare or livelihood of such persons; ~~or is~~
508 (B) Is involved in the processing and marketing of agricultural products, farm supplies,
509 and input suppliers; ~~or is~~
510 (C) Is engaged in agribusiness as defined by the United States Department of
511 Agriculture; ~~or is~~
512 (D) Is engaged in manufacturing, health care, technology, transportation, or related
513 services; ~~or~~

(E) Is determined by the department to be an if not engaged in such industries, the department determines that such investment that will be beneficial to the rural area and the economic growth of the state.

Any If a business which is classified as an eligible business at the time of the initial investment in said business by a rural fund grows to 250 employees or more, it shall remain classified as an eligible business and may receive follow-on investments from any rural fund, and such follow-on investments shall be qualified investments, provided that such business otherwise meets the definition of an eligible business."

SECTION 3-2.

Said Code section is further amended by revising subsections (e) and (k), and by adding a new subsection (l) to read as follows:

"(e)(1) A rural fund that seeks to have an equity investment certified as a capital investment and eligible for credits under this Code section shall apply to the department.

(1.1) For the first round of funding provided for in paragraph (6) of this subsection, the
The department shall begin accepting applications within 90 days of July 1, 2017, and
shall cease accepting applications on June 30, 2021.

(1.2) For a second round of funding provided for in paragraph (6.1) of this subsection, the department shall begin accepting applications on August 1, 2021, and shall cease accepting applications after such second round of funding is exhausted.

(1.3) The rural fund shall include the following in its application:

(A) The amount of capital investment requested:

(B) A copy of the applicant's or an affiliate of the applicant's license as a rural business investment company under 7 U.S.C. Section 2009cc or as a small business investment company under 15 U.S.C. Section 681 and a certificate executed by an executive officer of the applicant attesting that such license remains in effect and has not been revoked;

539 (C) Evidence that, as of the date the application is submitted, the applicant or affiliates
540 of the applicant have invested at least \$100 million in nonpublic companies located in
541 rural areas within the United States;
542 (D) An estimate of the number of jobs that will be created or retained in this state as
543 a result of the applicant's qualified investments;
544 (E) A business plan that includes a revenue impact assessment projecting state and
545 local tax revenue to be generated by the applicant's proposed qualified investments
546 prepared by a nationally recognized, third-party, independent economic forecasting firm
547 using a dynamic economic forecasting model that analyzes the applicant's business plan
548 over the ten years following the date the application is submitted to the department; and
549 (F) A nonrefundable application fee of \$5,000.00 for the round of funding provided for
550 in paragraph (6) of this subsection and \$25,000.00 for the round of funding provided
551 for in paragraph (6.1) of this subsection payable to the department.

552 (2) Within 30 days after receipt of a completed application, the department shall grant
553 or deny the application in full or in part. The department shall deny the application if:
554 (A) The applicant does not satisfy all of the criteria described in paragraph (1)(3)
555 of this subsection;
556 (B) The revenue impact assessment submitted with the application does not
557 demonstrate that the applicant's business plan will result in a positive economic impact
558 on this state over a ten-year period that exceeds the cumulative amount of tax credits
559 that would be issued to the applicant if the application were approved; or
560 (C) The department has already approved the maximum amount of capital investment
561 authority under paragraph (6) or paragraph (6.1) of this subsection, whichever
562 paragraph is applicable.

563 If the department denies any part of the application, it shall inform the applicant of the
564 grounds for the denial. If the applicant provides any additional information required by
565 the department or otherwise completes its application within 15 days of the notice of

566 denial, the application shall be considered completed as of the original date of
567 submission. If the applicant fails to provide the information or fails to complete its
568 application within the 15 day period, the application remains denied and must be
569 resubmitted in full with a new submission date.

570 (3) If the application is complete, the department shall certify the proposed equity
571 investment as a capital investment that is eligible for credits under this Code section,
572 subject to the limitations contained in paragraph (6) or paragraph (6.1) of this subsection,
573 whichever paragraph is applicable. The department shall provide written notice of the
574 certification to the rural fund.

575 (4) The department shall certify capital investments in the order that the applications
576 were received by the department. Applications received on the same day shall be deemed
577 to have been received simultaneously.

578 (5) For applications that are complete and received on the same day, the department
579 shall certify applications in proportionate percentages based upon the ratio of the amount
580 of capital investments requested in an application to the total amount of capital
581 investments requested in all applications.

582 (6) For a first round of funding, the The department shall certify \$100 million in capital
583 investments pursuant to this Code section until the earlier of the date that such funds are
584 exhausted, or June 30, 2021.

585 (6.1) For a second round of funding, beginning on August 1, 2021, the department shall
586 certify \$100 million in capital investments pursuant to this Code section until such funds
587 are exhausted.

588 (7) Within 60 days of the applicant receiving notice of certification, the rural fund shall
589 issue the capital investment to and receive cash in the amount of the certified amount
590 from a rural investor. At least 50 percent of the rural investor's capital investment shall
591 be composed of capital raised by the rural investor from sources, including directors,
592 members, employees, officers, and affiliates of the rural investor, other than the amount

593 of capital invested by the allocatee claiming the tax credits in exchange for such
594 allocation of tax credits. The rural fund shall provide the department with evidence of
595 the receipt of the cash investment within 65 days of the applicant receiving notice of
596 certification. If the rural fund does not receive the cash investment and issue the capital
597 investment within such time period following receipt of the certification notice, the
598 certification shall lapse and the rural fund shall not issue the capital investment without
599 reapplying to the department for certification. Lapsed certifications revert to the
600 authority and shall be reissued pro rata to applicants whose capital investment allocations
601 were reduced pursuant to paragraph (5) of this subsection and then in accordance with the
602 application process."

603 "(k)(1) Rural funds shall submit a report to the department within ~~the first~~ 15 business
604 days after ~~the second anniversary of the initial credit allowance date each qualified~~
605 ~~investment that provides documentation of: as to the investment of 100 percent of the~~
606 ~~purchase price of such capital investment in qualified investments. Such report shall~~
607 ~~include:~~

- 608 (A) The location of each eligible business receiving a qualified investment;
- 609 (B) Bank statements of such rural fund evidencing each qualified investment;
- 610 (C) A copy of the written opinion of the department set forth in subsection (j) of this
611 Code section or evidence that such business was an eligible business at the time of such
612 qualified investment, as applicable;
- 613 (D) The number of employment positions created and retained as a result of qualified
614 investments;
- 615 (E) The average annual salary of positions described in subparagraph (D) of this
616 paragraph; and
- 617 (F) Such other information required by the department.

(2) Thereafter, rural funds shall submit an annual report to the department within 45 days of the beginning of the calendar year during the compliance period. The report shall include but is not limited to the following:

(A) The number of employment positions created and retained as a result of qualified investments; and

(B) The average annual salary of positions described in subparagraph (A) of this paragraph; and

(C) The rural fund's total eligible capital investments as a percentage of its total capital investments.

(l) With respect to the second round of funding provided for in paragraph (6.1) of subsection (e) of this Code section, each rural fund shall pay an annual maintenance fee of \$7,500.00 to the department, beginning one year after the date of the initial credit allowance and annually thereafter for five years."

PART IV

SECTION 4-1.

Code Section 48-7-40.34 of the Official Code of Georgia Annotated, relating to tax credit for Class III railroads and reporting, is amended by revising subsections (c) through (h) as follows:

"(c)(1) The credit given under this Code section shall only be allowed once for each mile of railroad track in each taxable year.

(2) Such credit shall be given for each taxable year beginning on or after January 1, 2019, and ending on or before December 30, 2023 2028, in which the conditions of this Code section have been met.

(d) If a credit is given under this Code section with respect to any railroad track, the basis of such railroad track shall be reduced by the amount of the credit so allowed.

643 (e) The tax credits given to a Class III railroad by this Code section that are not used by
644 such Class III railroad shall be freely assignable one time between January 1, 2019, and
645 January 1, ~~2024~~ 2029, by written agreement to a taxpayer subject to the tax imposed by this
646 chapter.

647 (f) On or before September 1 of 2020 and annually thereafter until ~~2024~~ 2029, the
648 commissioner shall issue a report to the chairpersons of the Senate Finance Committee and
649 the House Committee on Ways and Means concerning the tax credit created by this Code
650 section, which shall include the following statistics for the preceding taxable year:

651 (1) The total number of taxpayers that claimed a credit provided by this Code section;
652 and

653 (2) The number and total value of all credits earned and all credits applied during such
654 tax year pursuant to this Code section.

655 (g) The commissioner shall promulgate such forms, rules, and regulations as are necessary
656 to implement and administer the provisions of this Code section.

657 (h) This Code section shall be automatically repealed on January 1, ~~2024~~ 2029.

PART V

SECTION 5-1.

660 Part 1 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
661 relating to general provisions regarding sales and use taxes, is amended by revising
662 paragraph (93) of Code Section 48-8-3, relating to exemptions from sales and use taxes, as
663 follows:

664 "(93)(A) For the period commencing January 1, 2012, until June 30, ~~2021~~ 2023, sales
665 of tangible personal property used for and in the construction of a competitive project
666 of regional significance.

(B) The exemption provided in subparagraph (A) of this paragraph shall apply to purchases made during the entire time of construction of the competitive project of regional significance so long as such project meets the definition of a competitive project of regional significance within the period commencing January 1, 2012, until June 30, 2021 2023.

(C) The department shall not be required to pay interest on any refund claims filed for local sales and use taxes paid on purchases made prior to the implementation of this paragraph.

(D) As used in this paragraph, the term 'competitive project of regional significance' means the location or expansion of some or all of a business enterprise's operations in this state where the commissioner of economic development determines that the project would have a significant regional impact. The commissioner of economic development shall promulgate regulations in accordance with the provisions of this paragraph outlining the guidelines to be applied in making such determination;"

SECTION 5-2.

Said part is further amended by revising paragraph (100) of Code Section 48-8-3, relating to exemptions from sales and use taxes, as follows:

"(100)(A) Sales of tickets, fees, or charges for admission to a fine arts performance or exhibition conducted within a facility in this state that is owned or operated by an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or a museum of cultural significance, if such organization's or museum's mission is to advance the arts in this state and to provide arts, educational, and culturally significant programming and exhibits for the benefit and enrichment of the citizens of this state.

(B) As used in this paragraph, the term 'fine arts' means music performed by a symphony orchestra, poetry, photography, ballet, dance, opera, theater, dramatic arts,

painting, sculpture, ceramics, drawing, watercolor, graphics, printmaking, and architecture.

(C) This paragraph shall stand repealed and reserved on December 31, 2022 Reserved;"

SECTION 5-3.

697 Said part is further amended in Code Section 48-8-3.2, relating to sales tax exemptions for
698 manufacturers, definitions, exemption, applicability, and examples, by revising paragraph
699 (12) of subsection (e) as follows:

700 "(12) Until July 1, 2020 For the period commencing on July 1, 2021, and ending on June
701 30, 2026, maintenance and replacement parts for machinery or equipment, stationary or in
702 transit, used to mix, agitate, and transport freshly mixed concrete in a plastic and
703 unhardened state, including but not limited to mixers and components, engines and
704 components, interior and exterior operational controls and components, hydraulics and
705 components, all structural components, and all safety components, provided that sales and
706 use taxes on motor fuel used as energy in a concrete mixer truck shall not be exempt or
707 refundable; and"

SECTION 5-4.

709 Said part is further amended by revising Code Section 48-8-3.4, relating to maximum amount
710 of sales and use tax on boats, annual reporting, and termination, as follows:

711 "48-8-3.4.

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

713 (1) 'Boat' means a vehicle used or capable of being used as a means of transportation on
714 the water.

715 (2) 'Event' means an uninterrupted period of time beginning when a boat arrives at a
716 maintenance, refit, or repair facility in this state and ending when such boat departs such
717 facility.

718 (b) Notwithstanding any other provision of this article, the maximum amount of sales and
719 use tax imposed and collected to maintain, refit, or repair a boat in this state during a single
720 event shall not exceed \$35,000.00.

721 (c) The commissioner shall promulgate any rules and regulations necessary to implement
722 and administer this Code section, including, but not limited to, calling for an annual report
723 to be issued to the department and the chairpersons of the House Committee on Ways and
724 Means and the Senate Finance Committee that contains the following:

725 (1) The number of full-time and part-time positions created by the seller during the
726 preceding tax year;

727 (2) The average salary of individuals employed in the reported positions; and

728 (3) The total revenue generated and sales and use taxes collected from qualifying events
729 during the preceding year.

730 (d) ~~This Code section shall be automatically repealed on June 30, 2025."~~

731 **PART VI**
732 **SECTION 6-1.**

733 This Act shall become effective on July 1, 2021.

734 **SECTION 6-2.**

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