

House Bill 3EX

By: Representatives Rhodes of the 120th, Rogers of the 10th, Efstoration of the 104th, Powell of the 171st, and Raffensperger of the 50th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales
2 and use taxes, so as to provide for legislative findings; to ratify an executive order of the
3 Governor suspending the collection of sales and use tax levied on jet fuel and to provide for
4 the continuance of such suspension indefinitely; to exempt jet fuel from certain sales and use
5 taxes under certain conditions and to a certain extent; to limit the taxation of the sale and use
6 of jet fuel pursuant to the Joint County and Municipal Sales and Use Tax (LOST) and the
7 "Metropolitan Atlanta Rapid Transit Authority Act of 1965"; to provide for a definition; to
8 repeal provisions limiting an exemption from such taxes on the sale or use of jet fuel for
9 certain qualifying airlines at certain qualifying airports; to repeal provisions relating to an
10 expired exemption from a portion of state sales and use tax for certain qualifying airlines at
11 certain qualifying airports; to repeal inapplicable definitions; to amend Chapter 7 of Title 48
12 of the Official Code of Georgia Annotated, relating to income taxes, so as to provide for
13 legislative findings; to provide for definitions; to provide income tax credits for certain
14 timber producers based on certain casualty losses related to Hurricane Michael; to provide
15 for transferability of such credits; to provide for related matters; to provide for effective
16 dates; to repeal conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 style="text-align:center">**PART I**
19 style="text-align:center">**SECTION 1-1.**

20 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use
21 taxes, is amended by adding a new Code section to read as follows:

22 "48-8-19.

23 (a) The General Assembly finds that:

24 (1) The annual economic impact of Georgia airports amounts to more than \$62 billion
25 per year;

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- 26 (2) Direct flights out of Hartsfield-Jackson Atlanta International Airport alone have
 27 supported nearly \$11 billion in foreign investment and 42,000 jobs across the state;
 28 (3) Georgia's sales and use tax levy on jet fuel amounts to the fourth highest tax burden
 29 on jet fuel among states with major airport hubs, placing Georgia at a competitive
 30 disadvantage compared to major airport hubs in Florida, New York, North Carolina, and
 31 Texas, among others; and
 32 (4) The distribution of the proceeds of sales and use tax on jet fuel could jeopardize
 33 Georgia's legal standing and compliance with federal aviation programs.
 34 (b) The General Assembly of Georgia hereby ratifies the Executive Order of the Governor
 35 dated July 30, 2018, and filed in the official records of the office of the Governor as
 36 Executive Order 07.30.18.01 which suspended the collection of any rate of sales and use
 37 tax as such tax applies to jet fuel. The General Assembly of Georgia hereby continues such
 38 suspension of collection indefinitely.
 39 (c) For the time period commencing on August 1, 2018, as specified in the Executive
 40 Order of the Governor dated July 30, 2018, and filed in the official records of the office of
 41 the Governor as Executive Order 07.30.18.01, and concluding at the last moment of
 42 November 30, 2018, sales and use taxation pursuant to Code Section 48-8-30 as such tax
 43 applies to jet fuel shall be governed by the provisions of this Code section notwithstanding
 44 any provisions of Code Section 48-8-30 or any other law to the contrary.
 45 (d) The commissioner is authorized to prescribe forms and promulgate rules and
 46 regulations deemed necessary in order to administer and effectuate this Code section."

47 **PART II**

48 **SECTION 2-1.**

49 Said chapter is further amended in Code Section 48-8-2, relating to definitions, by adding a
 50 new paragraph to read as follows:

51 "(16.1) 'Jet fuel' means any form of fuel that is designed for or used in the operation of
 52 aircraft powered by jet turbine or turboprop engines, including but not limited to Jet-A,
 53 and excludes aviation gasoline designed for or used in piston engines, including but not
 54 limited to avgas."

55 **SECTION 2-2.**

56 Said chapter is further amended in Code Section 48-8-3, relating to exemptions from state
 57 sales and use taxes, by revising paragraph (33.1) as follows:

58 "(33.1)(A) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport,
 59 to the extent provided in subparagraphs (B) and (C) of this paragraph.

60 ~~(B) For the period of time beginning July 1, 2012, and ending on June 30, 2015, the~~
 61 ~~sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall be exempt~~
 62 ~~from 1 percent of the 4 percent state sales and use tax.~~

63 ~~(C) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall~~
 64 ~~be exempt at all times from the sales or use tax levied and imposed as authorized~~
 65 ~~pursuant to Part 1 of Article 3 of this chapter. As used in this subparagraph, the term~~
 66 ~~'qualifying airport' means any airport in this state that has had more than 750,000~~
 67 ~~takeoffs and landings during a calendar year, and the term 'qualifying airline' shall have~~
 68 ~~the same meaning as set forth in subparagraph (E) of this paragraph.~~

69 ~~(D) Except as provided for in subparagraph (C) of this paragraph, this exemption shall~~
 70 ~~not apply to any other local sales and use tax levied or imposed at any time in any area~~
 71 ~~consisting of less than the entire state, however authorized, not to exceed the rate at~~
 72 ~~which such taxes were levied as of January 1, 2014, including, but not limited to, such~~
 73 ~~taxes authorized by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga.~~
 74 ~~L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act~~
 75 ~~of 1965,' or such taxes as authorized by or pursuant to Part 2 of Article 3 or Article 2,~~
 76 ~~2A, or 4 of this chapter.~~

77 ~~(E) For purposes of subparagraph (B) of this paragraph and paragraph (2) of subsection~~
 78 ~~(d) of Code Section 48-8-241, a 'qualifying airline' shall mean any person which is~~
 79 ~~authorized by the Federal Aviation Administration or appropriate agency of the United~~
 80 ~~States to operate as an air carrier under an air carrier operating certificate and which~~
 81 ~~provides regularly scheduled flights for the transportation of passengers or cargo for~~
 82 ~~hire.~~

83 ~~(F) For purposes of subparagraph (B) of this paragraph and paragraph (2) of subsection~~
 84 ~~(d) of Code Section 48-8-241, the term 'qualifying airport' means a certificated air~~
 85 ~~carrier airport in Georgia.~~

86 ~~(G) On or after July 1, 2017, revenue derived from the levy of sales and use taxes on~~
 87 ~~jet fuel shall be used for a state aviation program or airport related purposes to the~~
 88 ~~extent required to comply with 49 U.S.C. Sections 47107(b) and 47113. Any portion~~
 89 ~~of such revenue so derived which is in excess of the amount required for purposes of~~
 90 ~~such compliance with federal law may be appropriated by the General Assembly for~~
 91 ~~other purposes.~~

92 ~~(H) The commissioner shall adopt rules and regulations to carry out the provisions of~~
 93 ~~this paragraph;''~~

94 SECTION 2-3.

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

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96 "48-8-3.5.

97 (a) The sale or use of jet fuel that is pumped into an aircraft in this state and the use of jet
 98 fuel that is pumped into an aircraft in another state shall be exempt from all sales and use
 99 tax except such tax levied:

100 (1) By the state pursuant to Code Section 48-8-30 at a rate that shall not exceed 4
 101 percent;

102 (2) Pursuant to Article 2 of this chapter by a jurisdiction in which a sales and use tax
 103 was levied on jet fuel on December 30, 1987, at a rate that shall not exceed the rate in
 104 effect on December 30, 1987; and

105 (3) Pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243),
 106 as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965,' by a
 107 jurisdiction in which such tax was levied on jet fuel on December 30, 1987, at a rate that
 108 shall not exceed the rate in effect on December 30, 1987.

109 (b) For the period of time beginning December 1, 2018, and ending at the last moment of
 110 June 30, 2019, the sale or use of jet fuel that is pumped into an aircraft in this state and the
 111 use of jet fuel that is pumped into an aircraft in another state shall be exempt from the sales
 112 and use tax levied by the state pursuant to Code Section 48-8-30.

113 (c) To the extent required to comply with 49 U.S.C. Sections 47107(b) and 47113, revenue
 114 derived from the levy of sales and use taxes on jet fuel and other fuels sold or used at an
 115 airport for aviation purposes shall be used for a state aviation program or airport related
 116 purposes. Any portion of such revenue so derived which is not required or exceeds the
 117 amount required for purposes of such compliance with federal law may be appropriated for
 118 other purposes as provided by law.

119 (d) The commissioner shall adopt rules and regulations to carry out the provisions of this
 120 Code Section."

121 **SECTION 2-4.**

122 Said chapter is further amended by revising Code Section 48-8-6, relating to prohibition of
 123 political subdivisions from imposing various taxes, ceiling on local sales and use taxes, and
 124 taxation of mobile telecommunications, as follows:

125 "48-8-6.

126 (a) There shall not be imposed in any jurisdiction in this state or on any transaction in this
 127 state local sales taxes, local use taxes, or local sales and use taxes in excess of 2 percent.
 128 For purposes of this prohibition, the taxes affected are any sales tax, use tax, or sales and
 129 use tax which is levied in an area consisting of less than the entire state, however
 130 authorized, including such taxes authorized by or pursuant to constitutional amendment,

131 except that the following taxes shall not count toward or be subject to such 2 percent
132 limitation:

133 (1) A sales and use tax for educational purposes exempted from such limitation under
134 Article VIII, Section VI, Paragraph IV of the Constitution;

135 (2) Any tax levied for purposes of a metropolitan area system of public transportation,
136 as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page
137 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d)
138 of the Constitution; and the laws enacted pursuant to such constitutional amendment;
139 provided, however, that the exception provided for under this paragraph shall only apply:

140 (A) In a county in which a tax is being imposed under subparagraph (a)(1)(D) of Code
141 Section 48-8-111 in whole or in part for the purpose or purposes of a water capital
142 outlay project or projects, a sewer capital outlay project or projects, a water and sewer
143 capital outlay project or projects, water and sewer projects and costs as defined under
144 paragraph (4) of Code Section 48-8-200, or any combination thereof and with respect
145 to which the county has entered into an intergovernmental contract with a municipality,
146 in which the average waste-water system flow of such municipality is not less than 85
147 million gallons per day, allocating proceeds to such municipality to be used solely for
148 water and sewer projects and costs as defined under paragraph (4) of Code Section
149 48-8-200. The exception provided for under this subparagraph shall apply only during
150 the period the tax under such subparagraph (a)(1)(D) is in effect. The exception
151 provided for under this subparagraph shall not apply in any county in which a tax is
152 being imposed under Article 2A of this chapter;

153 (B) In a county in which the tax levied for purposes of a metropolitan area system of
154 public transportation is first levied after January 1, 2010, and before November 1, 2016.
155 Such tax shall not apply to the following:

156 (i) ~~The sale or use of jet fuel to or by a qualifying airline at a qualifying airport. For~~
157 ~~purposes of this division, a 'qualifying airline' means any person which is authorized~~
158 ~~by the Federal Aviation Administration or another appropriate agency of the United~~
159 ~~States to operate as an air carrier under an air carrier operating certificate and which~~
160 ~~provides regularly scheduled flights for the transportation of passengers or cargo for~~
161 ~~hire. For purposes of this division, a 'qualifying airport' means any airport in this state~~
162 ~~that has had more than 750,000 takeoffs and landings during a calendar year; and~~

163 (ii) The sale of motor vehicles; or

164 (C) In a county in which a tax is levied and collected pursuant to Part 2 of Article 2A
165 of this chapter;

166 (3) In the event of a rate increase imposed pursuant to Code Section 48-8-96, only the
167 amount in excess of the initial 1 percent sales and use tax and in the event of a newly

168 imposed tax pursuant to Code Section 48-8-96, only the amount in excess of a 1 percent
169 sales and use tax;

170 (4) A sales and use tax levied under Article 4 of this chapter;

171 (5) A sales and use tax levied under Article 5 of this chapter; and

172 (6) A sales and use tax levied under Article 5A of this chapter.

173 If the imposition of any otherwise authorized local sales tax, local use tax, or local sales
174 and use tax would result in a tax rate in excess of that authorized by this subsection, then
175 such otherwise authorized tax may not be imposed.

176 (b) Reserved.

177 (c) Where the exception specified in paragraph (2) of subsection (a) of this Code section
178 applies, the tax imposed under subparagraph (a)(1)(D) of Code Section 48-8-111 shall not
179 apply to:

180 ~~(1) Reserved; and~~

181 ~~(2) The sale of motor vehicles.~~

182 (c.1) Where the exception specified in paragraph (2) of subsection (a) of this Code section
183 applies, on and after July 1, 2007, the aggregate amount of all excise taxes imposed under
184 paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and use taxes shall
185 not exceed 14 percent.

186 (d) Notwithstanding any law or ordinance to the contrary, any tax, charge, or fee levied
187 by any political subdivision of this state and applicable to mobile telecommunications
188 services, as defined in Section 124(7) of the federal Mobile Telecommunications Sourcing
189 Act, 4 U.S.C. Section 124(7), shall apply only if the customer's place of primary use is
190 located within the boundaries of the political subdivision levying such local tax, charge,
191 or fee. For purposes of this subsection, the provisions of Code Section 48-8-13 shall apply
192 in the same manner and to the same extent as such provisions apply to the tax levied by
193 Code Section 48-8-1 on mobile telecommunications services. This subsection shall not be
194 construed to authorize the imposition of any tax, charge, or fee."

195 **SECTION 2-5.**

196 Said chapter is further amended by revising Code Section 48-8-82, relating to authorization
197 of counties and municipalities to impose joint sales and use tax, rate, and applicability to
198 sales of motor fuels and food and beverages, as follows:

199 "48-8-82.

200 (a) When the imposition of a joint county and municipal sales and use tax is authorized
201 according to the procedures provided in this article within a special district, the county
202 whose geographical boundary is conterminous with that of the special district and each
203 qualified municipality located wholly or partially within the special district shall levy a

204 joint sales and use tax at the rate of 1 percent, except as provided in subsection (b) of this
 205 Code section. Except as to rate, the joint tax shall correspond to the tax imposed and
 206 administered by Article 1 of this chapter. No item or transaction which is not subject to
 207 taxation by Article 1 of this chapter shall be subject to the tax levied pursuant to this article,
 208 except that the joint tax provided in this article shall be applicable to sales;

209 (1) The sale of motor fuels as prepaid local tax as that term is defined in Code Section
 210 48-8-2 and shall be applicable to the sale;

211 (2) The sale of food and food ingredients and alcoholic beverages only to the extent
 212 provided for in paragraph (57) of Code Section 48-8-3; and

213 (3) The sale or use of jet fuel as such term is defined in Code Section 48-8-2, to the
 214 extent allowed pursuant to Code Section 48-8-3.5.

215 (b) On or after July 1, 2015, such joint sales and use tax levied on sales of motor fuels as
 216 defined in Code Section 48-9-2 shall be at the rate of 1 percent of the retail sales price of
 217 the motor fuel which is not more than \$3.00 per gallon; provided, however, that in any
 218 consolidated government levying a joint sales and use tax at 2 percent pursuant to Code
 219 Section 48-8-96, on or after July 1, 2015, any such joint sales and use tax levied on sales
 220 of motor fuels as defined in Code Section 48-9-2 shall be at the rate of 2 percent of the
 221 retail sales price of the motor fuel which is not more than \$3.00 per gallon."

222 **SECTION 2-6.**

223 Said chapter is further amended in Code Section 48-8-241, relating to special districts and
 224 tax rate for the Special District Transportation Sales and Use Tax (TSPLOST), by revising
 225 subsection (d) as follows:

226 "(d) Except as otherwise provided in subsection (e) of this Code section, any tax imposed
 227 under this article shall be at the rate of 1 percent. Except as to rate, a tax imposed under
 228 this article shall correspond to the tax imposed by Article 1 of this chapter. No item or
 229 transaction which is not subject to taxation under Article 1 of this chapter shall be subject
 230 to a tax imposed under this article, ~~except that~~ and a tax imposed under this article shall not
 231 apply to:

232 (1) The sale or use of any type of fuel used for off-road heavy-duty equipment, off-road
 233 farm or agricultural equipment, or locomotives;

234 (2) The sale or use of jet fuel ~~to or by a qualifying airline at a qualifying airport as such~~
 235 term is defined in Code Section 48-8-2, except to the extent allowed pursuant to Code
 236 Section 48-8-3.5;

237 (3) The sale or use of fuel that is used for propulsion of motor vehicles on the public
 238 highways. For purposes of this paragraph, a motor vehicle means a self-propelled vehicle
 239 designed for operation or required to be licensed for operation upon the public highways;

240 (4) The sale or use of energy used in the manufacturing or processing of tangible goods
241 primarily for resale; or

242 (5) Motor fuel as defined under paragraph (9) of Code Section 48-9-2 for public mass
243 transit.

244 The tax imposed pursuant to this article shall only be levied on the first \$5,000.00 of any
245 transaction involving the sale or lease of a motor vehicle. The tax imposed pursuant to this
246 article shall be subject to any sales and use tax exemption which is otherwise imposed by
247 law; provided, however, that the tax levied by this article shall be applicable to the sale of
248 food and food ingredients as provided for in paragraph (57) of Code Section 48-8-3."

249 **SECTION 2-7.**

250 Said chapter is further amended by revising Code Section 48-8-269, relating to exemption
251 from taxation pursuant to the Special District Mass Transportation Sales and Use Tax, as
252 follows:

253 "48-8-269.

254 (a) Except as to rate, a tax imposed under this part shall correspond to the tax imposed by
255 Article 1 of this chapter. No item or transaction which is not subject to taxation under
256 Article 1 of this chapter shall be subject to a tax imposed under this part, ~~except that~~ and
257 a tax imposed under this part shall not apply to:

258 (1) The sale or use of any type of fuel used for off-road heavy-duty equipment, off-road
259 farm or agricultural equipment, or locomotives;

260 (2) The sale or use of jet fuel ~~to or by a qualifying airline at a qualifying airport as such~~
261 term is defined in Code Section 48-8-2, except to the extent allowed pursuant to Code
262 Section 48-8-3.5;

263 (3) The sale or use of fuel that is used for propulsion of motor vehicles on the public
264 highways;

265 (4) The sale or use of energy used in the manufacturing or processing of tangible goods
266 primarily for resale;

267 (5) The sale or use of motor fuel as defined under paragraph (9) of Code Section 48-9-2
268 for public mass transit; or

269 (6) The purchase or lease of any motor vehicle pursuant to Code Section 48-5C-1.

270 (b) Except as otherwise specifically provided in this part, the tax imposed pursuant to this
271 part shall be subject to any sales and use tax exemption which is otherwise imposed by law;
272 provided, however, that the tax levied by this part shall be applicable to the sale of food and
273 food ingredients as provided for in paragraph (57) of Code Section 48-8-3."

274 **SECTION 2-8.**

275 Said chapter is further amended by revising Code Section 48-8-269.15, relating to a tax
 276 authorized to be imposed in Metropolitan County Special Districts, as follows:

277 "48-8-269.15.

278 (a) Except as to rate, a tax imposed under this part shall correspond to the tax imposed by
 279 Article 1 of this chapter. No item or transaction which is not subject to taxation under
 280 Article 1 of this chapter shall be subject to a tax imposed under this part, ~~except that~~ and
 281 a tax imposed under this part shall not apply to:

282 (1) The sale or use of any type of fuel used for off-road heavy-duty equipment, off-road
 283 farm or agricultural equipment, or locomotives;

284 (2) The sale or use of jet fuel ~~to or by a qualifying airline at a qualifying airport as such~~
 285 term is defined in Code Section 48-8-2, except to the extent allowed pursuant to Code
 286 Section 48-8-3.5;

287 (3) The sale or use of fuel that is used for propulsion of motor vehicles on the public
 288 highways;

289 (4) The sale or use of energy used in the manufacturing or processing of tangible goods
 290 primarily for resale;

291 (5) The sale or use of motor fuel as defined under paragraph (9) of Code Section 48-9-2
 292 for public mass transit; or

293 (6) The purchase or lease of any motor vehicle pursuant to Code Section 48-5C-1.

294 (b) Except as otherwise specifically provided in this part, the tax imposed pursuant to this
 295 part shall be subject to any sales and use tax exemption which is otherwise imposed by law;
 296 provided, however, that the tax levied by this part shall be applicable to the sale of food and
 297 food ingredients as provided for in paragraph (57) of Code Section 48-8-3."

298 **SECTION 2-9.**

299 Said chapter is further amended by revising Code Section 48-8-269.30, relating to a tax
 300 authorized to be imposed in Metropolitan Municipality Special Districts, as follows:

301 "48-8-269.30.

302 (a) Except as to rate, a tax imposed under this part shall correspond to the tax imposed by
 303 Article 1 of this chapter. No item or transaction which is not subject to taxation under
 304 Article 1 of this chapter shall be subject to a tax imposed under this part, ~~except that~~ and
 305 a tax imposed under this part shall not apply to:

306 (1) The sale or use of any type of fuel used for off-road heavy-duty equipment, off-road
 307 farm or agricultural equipment, or locomotives;

308 (2) The sale or use of jet fuel ~~to or by a qualifying airline at a qualifying airport~~ as such
 309 term is defined in Code Section 48-8-2, except to the extent allowed pursuant to Code
 310 Section 48-8-3.5;

311 (3) The sale or use of fuel that is used for propulsion of motor vehicles on the public
 312 highways;

313 (4) The sale or use of energy used in the manufacturing or processing of tangible goods
 314 primarily for resale;

315 (5) The sale or use of motor fuel as defined under paragraph (9) of Code Section 48-9-2
 316 for public mass transit; or

317 (6) The purchase or lease of any motor vehicle pursuant to Code Section 48-5C-1.

318 (b) Except as otherwise specifically provided in this part, the tax imposed pursuant to this
 319 part shall be subject to any sales and use tax exemption which is otherwise imposed by law;
 320 provided, however, that the tax levied by this part shall be applicable to the sale of food and
 321 food ingredients as provided for in paragraph (57) of Code Section 48-8-3."

322 **PART III**

323 **SECTION 3-1.**

324 Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes,
 325 is amended by adding a new Code section to read as follows:

326 "48-7-40.36.

327 (a)(1) The General Assembly finds and determines that Hurricane Michael has had a
 328 catastrophic impact on the citizens and the economy of southwest Georgia, has
 329 particularly devastated the timber industry on which the citizens of southwest Georgia are
 330 heavily dependent for their livelihood, and has created both a public fire hazard and a
 331 danger of insect infestations due to the massive amounts of downed timber caused by the
 332 severity of this natural disaster.

333 (2) The General Assembly further finds and declares that it is appropriate and advisable
 334 to provide relief to the timber industry in the form of a tax credit targeted to those
 335 taxpayers that have suffered substantial economic losses and that will have to incur
 336 significant expenses for salvaging downed timber, site clearance, and reforestation of
 337 timber over the coming years.

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

339 (1) 'Disaster area' means the real property encompassed by the borders of the 28 counties
 340 included in the renewal of the State of Emergency pronounced in the Executive Order of
 341 the Governor dated November 6, 2018, and filed in the official records of the office of
 342 the Governor as Executive Order 11.06.18.01.

343 (2) 'Eligible timber property' means timber which on October 8, 2018, was being grown
344 by a taxpayer in a disaster area as part of a trade or business or a transaction entered into
345 for profit.

346 (3) 'Timber' means trees grown for the primary purpose of commercial production of
347 food or wood or wood fiber products.

348 (4) 'Timber casualty loss' means the amount of the diminution of value included in the
349 computation of the casualty loss deduction for such casualty losses claimed and allowed
350 pursuant to Section 165 of the Internal Revenue Code of 1986 as casualty losses incurred
351 by a taxpayer between October 9, 2018, and December 31, 2018, as a result of damage
352 to or destruction of eligible timber property caused by Hurricane Michael.

353 (c)(1) A taxpayer shall be allowed tax credits against the tax imposed by this article in
354 an amount equal to 100 percent of such taxpayer's timber casualty loss; provided,
355 however, that the credit amount shall not exceed the number of the taxpayer's affected
356 acres of eligible timber property in such disaster areas multiplied by \$400.00.

357 (2) To claim such tax credits, a taxpayer shall submit, on or before December 31, 2019,
358 an application for preapproval of such credits based on timber casualty losses incurred
359 by such taxpayer.

360 (d)(1) The commissioner shall require preapproval applications to contain such
361 information as is necessary to substantiate a taxpayer's eligibility for tax credits allowed
362 pursuant to this Code section.

363 (2) The commissioner is authorized to require electronic submission of preapproval
364 applications in the manner specified by the commissioner.

365 (3)(A) The commissioner shall approve properly completed preapproval applications
366 and issue a preapproval certificate to the taxpayer within 30 days of receipt of any such
367 application certifying the amount of credits such taxpayer is eligible to claim if the
368 taxpayer meets the conditions of this Code section.

369 (B) The commissioner shall review and process properly completed preapproval
370 applications in the order in which such applications were submitted.

371 (C) In the event that two or more preapproval applications are submitted on the same
372 day and the amount of funds available are not sufficient to fully fund the tax credits
373 requested, the commissioner shall prorate the available funds between or among the
374 applicants.

375 (4) In no event shall the commissioner preapprove tax credits pursuant to this Code
376 section in an amount that exceeds \$200 million.

377 (e) In no event shall the amount of the tax credits allowed pursuant to this Code section
378 exceed \$200 million.

379 (f)(1) Tax credits allowed pursuant to this Code section shall be eligible to be claimed
380 only by the taxpayer to which a preapproval certificate was issued by the commissioner.
381 Such tax credits shall only be claimed in the taxable year in which the taxpayer first
382 completes the replanting of timber in a quantity projected to yield at maturity at least 90
383 percent of the value of the timber casualty loss claimed. Such timber shall be planted
384 within the same county in which the eligible timber property was being grown when the
385 timber casualty loss was incurred. Timber market conditions as of October 8, 2018, shall
386 be used for the purposes of establishing projected value.

387 (2) In order to claim such tax credits, a taxpayer shall attach to such taxpayer's state tax
388 return certification from the taxpayer that the requirements of this Code section have been
389 met and any other information required by the commissioner including information which
390 demonstrates that it has completed the replanting of timber required pursuant to
391 paragraph (1) of this subsection.

392 (3) Any tax credits allowed pursuant to this Code section shall be claimed on or before
393 December 31, 2024.

394 (g)(1) In no event shall the total amount of the tax credits allowed pursuant to this Code
395 section for a taxable year exceed the taxpayer's income tax liability. No such tax credits
396 shall be allowed the taxpayer against tax liability in taxable years prior to the year in
397 which the credits are claimed.

398 (2) Tax credits claimed pursuant to this Code section but not used in any taxable year
399 may be carried forward for ten years from the close of the taxable year in which the
400 credits are claimed.

401 (h) Tax credits claimed pursuant to this Code section but not used by the taxpayer against
402 its income tax may be transferred or sold one time to a single other Georgia taxpayer,
403 subject to the following conditions:

404 (1) Only the taxpayer that claimed tax credits allowed pursuant to this Code section shall
405 make the transfer or sale of such tax credits;

406 (2) The taxpayer that claimed the tax credits allowed pursuant to this Code section shall
407 submit to the commissioner written notification of any transfer or sale of tax credits
408 within 30 days after the transfer or sale of such tax credits. The notification shall include:

409 (A) Such taxpayer's credit balance prior to transfer;

410 (B) The credit certificate number;

411 (C) The remaining balance of credits after transfer;

412 (D) The tax identification numbers for the transferee;

413 (E) The date of transfer;

414 (F) The amount of credits transferred; and

415 (G) Other information as may be required by the department;

416 (3) Failure to comply with this subsection shall result in the disallowance of the tax
 417 credits allowed pursuant to this Code section until the taxpayer that claimed the credits
 418 is in full compliance;

419 (4) The transfer or sale of the tax credits does not extend the time during which such tax
 420 credits can be used. The carry-forward period for tax credits that are transferred or sold
 421 shall begin on the date on which such tax credits were originally claimed;

422 (5) A transferee shall have only such rights to claim and use the tax credits that were
 423 available to the transferor at the time of the transfer. To the extent that the transferor did
 424 not have rights to claim or use the tax credits at the time of the transfer, the commissioner
 425 shall disallow the tax credits claimed by the transferee or recapture the tax credits from
 426 the transferee or transferor. The transferee's recourse shall not be against the
 427 commissioner; and

428 (6) The transferee must acquire the tax credits allowed pursuant to this Code section for
 429 a minimum of 60 percent of the amount of the tax credits so transferred.

430 (i)(1) A taxpayer claiming, transferring, or selling tax credits allowed pursuant to this
 431 Code section shall be required to reimburse the department for any department initiated
 432 audits relating to the tax credits, provided that such amount shall not exceed the value of
 433 the credits claimed by the taxpayer. This paragraph shall not apply to routine tax audits
 434 of such taxpayer that may include the review of the tax credits provided in this Code
 435 section.

436 (2) The commissioner shall have access to timber property for the purpose of
 437 determining eligibility for both the preapproval and claiming of tax credits allowed and
 438 conducting audits pursuant to this Code section, provided that prior notice is given to any
 439 taxpayer that submitted an application for the preapproval of tax credits or that
 440 transferred or claimed such tax credits and the owner of the underlying real property.

441 (3) The commissioner may pursue all remedies available by law as necessary to
 442 recapture tax credits wrongfully preapproved, allowed, or claimed by a taxpayer or a
 443 taxpayer's transferee.

444 (j) The commissioner shall be authorized to promulgate any rules and regulations
 445 necessary to implement and administer this Code section."

446 **PART IV**
 447 **SECTION 4-1.**

448 (a) Except as otherwise provided in subsection (b) of this section, this Act shall become
 449 effective upon its approval by the Governor or upon its becoming law without such approval.

450 (b) Part II of this Act shall become effective December 1, 2018.

451

SECTION 4-2.

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