

**Representative Hall, Atlanta, Georgia**

**Tuesday, March 20, 2012**

**Thirty-Fifth Legislative Day**

The House met pursuant to adjournment at 10:00 o'clock, A.M., this day and was called to order by the Speaker.

The roll was called and the following Representatives answered to their names:

Abdul-Salaam	Crawford	Harden, M	Manning	Scott, S
E Abrams	Davis	Hatchett	Marin	Setzler
Allison	E Dawkins-Haigler	Hatfield	Maxwell	Shaw
Amerson	Dempsey	Heard	Mayo	Sheldon
Anderson	Dickerson	Heckstall	McBrayer	Sims, B
Ashe	Dickey	Hembree	McCall	Smith, E
Atwood	Dickson	E Henson	McKillip	Smith, K
Baker	Dobbs	Hightower	Meadows	Smith, L
Battles	Dollar	Hill	Mitchell	Smith, R
E Beasley-Teague	Drenner	Holcomb	Morgan	E Smith, T
Bell	Dudgeon	Holmes	Murphy	Smyre
Benton	Dukes	Holt	E Neal, J	Stephens, M
Black	Dunahoo	Horne	E Neal, Y	Stephens, R
Braddock	Dutton	Houston	Nimmer	Talton
Brockway	Ehrhart	Howard	Nix	Taylor, D
Brooks	England	Jackson	O'Neal	Taylor, R
Bryant	Epps, J	James	Pak	Taylor, T
Buckner	Evans	Jasperse	Parrish	Teasley
Burns	E Floyd	Johnson	Peake	E Thomas
Carson	Fludd	Jones, J	Powell, J	Waites
Carter	Frazier	Jones, S	Pruett	Watson
Casas	Fullerton	E Jordan	Purcell	Welch
E Channell	Gardner	Kaiser	Ramsey	Wilkerson
Cheokas	Geisinger	Kidd	Randall	Wilkinson
Clark, J	Golick	Kirby	Reece	Williams, A
Clark, V	Gordon	Knight	Rice	Williams, C
Coleman	Greene	Lane	Riley	Williams, E
Collins	Hamilton	Lindsey	Roberts	Williams, R
Cooke	Hanner	Long	Rogers, T	Williamson
Coomer	Harbin	Maddox, B	Rynders	Yates
Cooper	Harden, B	Maddox, G	E Scott, M	Ralston, Speaker

Due to a mechanical malfunction, Representative Tankersley of the 158th was not recorded on the attendance roll call. She wished to be recorded as present.

The following members were off the floor of the House when the roll was called:

Representatives Benfield of the 85th, Beverly of the 139th, Bruce of the 64th, Byrd of the 20th, Epps of the 128th, Hudson of the 124th, Jacobs of the 80th, Jerguson of the

22nd, Kendrick of the 94th, Morris of the 155th, Mosby of the 90th, Oliver of the 83rd, Parent of the 81st, Parsons of the 42nd, Powell of the 29th, Rogers of the 26th, Sims of the 169th, Spencer of the 180th, Stephenson of the 92nd, and Weldon of the 3rd.

They wished to be recorded as present.

Prayer was offered by Reverend Dr. Marlon D. Scott, Sr., Pastor, Emmanuel Christian Community Church, Columbus, Georgia.

The members pledged allegiance to the flag.

Representative Davis of the 109th, Chairman of the Committee on Information and Audits, reported that the Journal of the previous legislative day had been read and found to be correct.

By unanimous consent, the reading of the Journal was dispensed with.

The Journal was confirmed.

By unanimous consent, the following was established as the order of business during the first part of the period of unanimous consents:

1. Introduction of Bills and Resolutions.
2. First reading and reference of House Bills and Resolutions.
3. Second reading of Bills and Resolutions.
4. Reports of Standing Committees.
5. Third reading and passage of Local uncontested Bills.
6. First reading and reference of Senate Bills and Resolutions.

By unanimous consent, the following Bills and Resolutions of the House were introduced, read the first time and referred to the Committees:

HB 1291. By Representatives Wilkinson of the 52nd, Geisinger of the 48th, Lindsey of the 54th and Willard of the 49th:

A BILL to be entitled an Act to amend an Act providing for a new charter for the City of Sandy Springs in Fulton County, approved April 15, 2005 (Ga. L. 2005 p. 3515), so as to modify provisions relating to the City of Sandy

Springs and the executive and judicial officials of such city; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

HB 1292. By Representatives Benfield of the 85th, Oliver of the 83rd, Ashe of the 56th, Thomas of the 100th and Holcomb of the 82nd:

A BILL to be entitled an Act to amend Chapter 2A of Title 20 of the Official Code of Georgia Annotated, relating to student scholarship organizations, so as to provide for testing requirements for qualified schools and programs which enroll eligible students; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Education.

HB 1293. By Representative Harden of the 147th:

A BILL to be entitled an Act to amend an Act creating the Board of Commissioners of Crisp County, approved August 8, 1908 (Ga. L. 1908, p. 295), as amended, particularly by an Act approved April 23, 2002 (Ga. L. 2002, p. 4091), so as to change the descriptions of commissioner districts and posts for the election of members of the board of commissioners; to provide for definitions and inclusions; to provide for continuation in office of current members until the expiration of the terms of office to which they were elected; to provide for other matters; to provide for submission of this Act for approval under the federal Voting Rights Act of 1965, as amended; to provide for effective dates; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

HB 1294. By Representative Maddox of the 127th:

A BILL to be entitled an Act to amend an Act entitled "An Act to provide a new charter for the City of Williamson," approved April 7, 1992 (Ga. L. 1992, p. 5651), so as to change the terms of office of the mayor and members of the city council; to provide for elections; to provide for the submission of this Act for preclearance under Section 5 of the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

HB 1295. By Representative Harden of the 28th:

A BILL to be entitled an Act to amend an Act to divide the County of Stephens into school districts, approved March 23, 1977 (Ga. L. 1977, p. 3875), as amended, so as to change the description of the education districts; to provide for definitions and inclusions; to provide for the continuation in office of current members; to provide for the submission of this Act for preclearance under Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

HB 1296. By Representative Harden of the 28th:

A BILL to be entitled an Act to authorize the governing authority of the City of Toccoa to levy an excise tax pursuant to subsection (b) of Code Section 48-13-51 of the O.C.G.A.; to provide procedures, conditions, and limitations; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

HB 1297. By Representatives Sims of the 169th, Smith of the 168th and Roberts of the 154th:

A BILL to be entitled an Act to provide for a nonbinding, advisory referendum by the electors of Jeff Davis County for the purpose of ascertaining whether the judge of the Probate Court of Jeff Davis County shall also serve as the chief magistrate judge of the Magistrate Court of Jeff Davis County; to provide for procedures and requirements relating thereto; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

HR 1871. By Representatives Dudgeon of the 24th, Setzler of the 35th, Harrell of the 106th, Teasley of the 38th, Dutton of the 166th and others:

A RESOLUTION urging the Georgia World Congress Center Authority to use free market principles with any contracts or rights for a new Atlanta Falcons stadium on the World Congress Center property; and for other purposes.

Referred to the Committee on Economic Development & Tourism.

HR 1872. By Representative Abdul-Salaam of the 74th:

A RESOLUTION honoring the life and memory of Coretta Scott King and dedicating a road in her honor; and for other purposes.

Referred to the Committee on Transportation.

By unanimous consent, the rules were suspended in order that the following Bills of the House could be introduced, read the first time and referred to the Committees:

HB 1298. By Representatives Ashe of the 56th and Lindsey of the 54th:

A BILL to be entitled an Act to amend an Act providing for a new charter for the City of Atlanta, approved April 15, 1996 (Ga. L. 1996, p. 4469), as amended, particularly by an Act approved May 17, 2004 (Ga. L. 2004, p.3840), so as to modify provisions relating to the municipal court; to provide for the imposition, collection, and expenditure of an additional penalty in the municipal court for municipal detention and prison facilities; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

HB 1299. By Representatives Drenner of the 86th, Henson of the 87th, Mayo of the 91st, Jacobs of the 80th, Gardner of the 57th and others:

A BILL to be entitled an Act to provide for a nonbinding, advisory referendum by the electors of DeKalb County for the purpose of ascertaining whether the local or independent school system in DeKalb County or charter school should place or operate a telecommunications tower on any elementary, middle, or high school property; to provide for procedures and requirements relating thereto; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

HB 1300. By Representative Pruett of the 144th:

A BILL to be entitled an Act to revise and restate the law relating to the Bleckley County board of education and school superintendent; to provide for the number of members of the board and the districts from which they are

elected; to provide for eligibility, manner of election, and filling of vacancies; to provide for a chairperson and vice chairperson; to provide for reimbursement of expenses; to provide for appointment of the school superintendent; to provide for related matters; to provide for submission of this Act for preclearance under the Voting Rights Act; to provide for effective dates; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

HB 1301. By Representatives Stephens of the 164th, Bryant of the 160th, Stephens of the 161st, Gordon of the 162nd, Purcell of the 159th and others:

A BILL to be entitled an Act to amend an Act making provisions for the Magistrate Court of Chatham County and abolishing the Municipal Court of Savannah, approved March 28, 1984 (Ga. L. 1984, p. 4422), as amended, so as to provide for qualifications for magistrates; to provide for applicability; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

By unanimous consent, the following Bills and Resolution of the House and Senate were read the second time:

HB 1274	HB 1275
HB 1276	HB 1277
HB 1278	HB 1279
HB 1280	HB 1281
HB 1282	HB 1283
HB 1284	HB 1285
HB 1286	HB 1287
HB 1288	HB 1289
HB 1290	HR 1849
SB 515	

Representative Cooper of the 41st District, Chairman of the Committee on Health and Human Services, submitted the following report:

Mr. Speaker:

Your Committee on Health and Human Services has had under consideration the following Bill of the Senate and has instructed me to report the same back to the House with the following recommendation:

SB 368 Do Pass, by Substitute

Respectfully submitted,  
/s/ Cooper of the 41st  
Chairman

Representative Sims of the 169th District, Chairman of the Committee on Intragovernmental Coordination, submitted the following report:

Mr. Speaker:

Your Committee on Intragovernmental Coordination - Local Legislation has had under consideration the following Bills of the House and Senate and has instructed me to report the same back to the House with the following recommendations:

HB 1230	Do Pass, by Substitute	HB 1255	Do Pass
HB 1257	Do Pass	HB 1258	Do Pass
HB 1259	Do Pass	HB 1261	Do Pass
HB 1262	Do Pass	HB 1263	Do Pass
HB 1264	Do Pass	HB 1265	Do Pass
HB 1266	Do Pass	HB 1267	Do Pass
HB 1268	Do Pass	HB 1269	Do Pass
HB 1270	Do Pass	HB 1271	Do Pass
HB 1273	Do Pass	SB 433	Do Pass

Respectfully submitted,  
/s/ Sims of the 169th  
Chairman

The following Resolution of the House, referred to the House Rules Subcommittee on Invites, was reported by the Committee on Rules with the following recommendation:

HR 1678 Do Pass

The following report of the Committee on Rules was read and adopted:

HOUSE RULES CALENDAR  
TUESDAY, MARCH 20, 2012

Mr. Speaker and Members of the House:

The Committee on Rules has fixed the calendar for this 35th Legislative Day as enumerated below:

DEBATE CALENDAR

**Open Rule**

HR 1561 United States Department of Labor; recall proposed policies; urge (IndR-Shaw-176th)

**Modified Open Rule**

SB 331 Insurance; closing protection letters; provide for premiums; authorize Commissioner of Insurance to promulgate rules and regulations (Ins-Rogers-26th) Shafer-48th

**Modified Structured Rule**

None

**Structured Rule**

None

Bills and Resolutions on this calendar may be called in any order the Speaker desires.

Respectfully submitted,  
/s/ Meadows of the 5th  
Chairman

By unanimous consent, the following Bills of the House and Senate were taken up for consideration and read the third time:

HB 1230. By Representatives Oliver of the 83rd, Mosby of the 90th, Gardner of the 57th, Holcomb of the 82nd, Parent of the 81st and others:

A BILL to be entitled an Act to amend an Act creating and establishing the Recorder's Court of DeKalb County, approved March 17, 1959 (Ga. L. 1959, p. 3093), as amended, particularly by an Act approved April 11, 1979 (Ga. L. 1979, p. 3565), so as to provide for the payment of costs in such court; to provide for a schedule of costs; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED  
AN ACT

To amend an Act creating and establishing the Recorder's Court of DeKalb County, approved March 17, 1959 (Ga. L. 1959, p. 3093), as amended, particularly by an Act approved April 11, 1979 (Ga. L. 1979, p. 3565), so as to provide for the payment of costs in such court; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

An Act creating and establishing the Recorder's Court of DeKalb County, approved March 17, 1959 (Ga. L. 1959, p. 3093), as amended, particularly by an Act approved April 11, 1979 (Ga. L. 1979, p. 3565), is amended by revising Section 21 as follows:

"SECTION 21.

Each person who is ordered to pay a fine for, is convicted of, or pleads guilty or enters a plea of nolo contendere to any violation shall pay court costs of \$25.00 unless otherwise ordered by the sentencing judge. Such court costs may be included in an order of probation and paid during the probated part of any sentence. Such court costs shall be used to defray the cost of operating the recorder's court."

**SECTION 2.**

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

HB 1255. By Representatives Channell of the 116th, Kidd of the 141st and Hudson of the 124th:

A BILL to be entitled an Act to amend an Act creating the Eatonton-Putnam Water and Sewer Authority, approved May 10, 2005 (Ga. L. 2005, p. 4090), as amended, particularly by an Act approved May 11, 2009 (Ga. L. 2009, p. 4363), so as to change certain provisions relating to the composition of the authority; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

HB 1257. By Representatives Burns of the 157th and Purcell of the 159th:

A BILL to be entitled an Act to amend an Act creating a Board of Commissioners of Roads and Revenues for the County of Effingham, approved July 26, 1921 (Ga. L. 1921, p. 466), as amended, so as to revise the powers and duties of the chairperson of the board; to provide for meetings; to provide for quorum and voting; to provide an effective date; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

HB 1258. By Representatives Smyre of the 132nd, Hugley of the 133rd, Smith of the 131st, Buckner of the 130th and Smith of the 129th:

A BILL to be entitled an Act to amend an Act providing for a new charter for the county-wide government of Columbus, Georgia, approved April 5, 1993 (Ga. L. 1993, p. 4978), as amended, so as to provide for certain notices to be made in the newspaper having the largest circulation in Columbus, Georgia; to correct certain clerical errors in such Act; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

HB 1259. By Representatives Knight of the 126th, Maddox of the 127th, Holmes of the 125th and Dickey of the 136th:

A BILL to be entitled an Act to provide a new charter for the City of Milner; to provide for reincorporation, boundaries, and powers of the city; to provide for general powers and limitations on powers; to provide for a governing authority of such city and the powers, duties, authority, election, terms, method of filling vacancies, compensation, expenses, qualifications, prohibitions, conflicts of interest, suspension, and removal from office relative to members of such governing authority; to provide for inquiries and investigations; to provide for organization and procedures; to provide for ordinances; to provide for the office of mayor and mayor pro tempore and certain duties and powers relative thereto; to repeal a specific Act; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

HB 1261. By Representatives Knight of the 126th and Yates of the 73rd:

A BILL to be entitled an Act to create and establish an airport authority in and for the County of Spalding and City of Griffin; to authorize such authority to acquire, construct, equip, maintain, operate, own, and improve airports and landing fields for the use of aircraft which shall include related buildings, equipment, and the usual and convenient facilities appertaining to such undertaking; to authorize the authority to acquire, lease, own, and hold a fee simple title, or any interest therein, to all necessary property therefor, both real and personal, within and outside the confines of Spalding County and to lease and sell any and all such facilities including real property; to provide an effective date; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

HB 1262. By Representatives Weldon of the 3rd, Neal of the 1st and Dickson of the 6th:

A BILL to be entitled an Act to amend an Act to reconstitute the Board of Education of Catoosa County, Georgia, approved March 30, 1993 (Ga. L. 1993, p. 4258), as amended, particularly by an Act approved May 6, 2005 (Ga. L. 2005, p. 4005), so as to change the description of the education districts; to provide for definitions and inclusions; to provide for the continuation in office of current members; to provide for the submission of this Act for preclearance under Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

HB 1263. By Representatives Weldon of the 3rd, Neal of the 1st and Dickson of the 6th:

A BILL to be entitled an Act to amend an Act creating the office of commissioner of Catoosa County, approved February 23, 1943 (Ga. L. 1943, p. 858), as amended, particularly by an Act approved May 6, 2005 (Ga. L. 2005, p. 4011), so as to change the description of the commissioner districts; to provide for definitions and inclusions; to provide for the continuation in office of current members; to provide for the submission of this Act for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965,

as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

HB 1264. By Representatives Hembree of the 67th, Hightower of the 68th, Brooks of the 63rd and Bruce of the 64th:

A BILL to be entitled an Act to amend an Act to provide a new charter for the City of Douglasville, approved April 16, 1999 (Ga. L. 1999, p. 4559), as amended, so as to change the description of the election districts; to provide for definitions and inclusions; to provide for manner of election; to provide for the continuation in office of current members; to provide for the submission of this Act for preclearance under Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

HB 1265. By Representatives Beverly of the 139th, Randall of the 138th, Epps of the 140th, Dickey of the 136th and Peake of the 137th:

A BILL to be entitled an Act to create the Macon-Bibb County Community Enhancement Authority; to provide a statement of legislative findings; to define certain terms; to provide for a board of trustees, appointment of members, and meetings; to provide for powers and duties; to authorize the issuance of revenue bonds of the authority and to authorize the collection for the payment of such revenue bonds; to make the revenue bonds of the authority exempt from taxation; to fix and provide the venue and jurisdiction of actions relating to any provisions of this Act; to provide for the validation of bonds; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

HB 1266. By Representatives Setzler of the 35th, Carson of the 43rd, Morgan of the 39th, Evans of the 40th, Parsons of the 42nd and others:

A BILL to be entitled an Act to amend an Act creating the Acworth Lake Authority, approved February 19, 1951 (Ga. L. 1951, p. 265), as amended, so

as to change membership requirements; to change the number required for a quorum; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

HB 1267. By Representatives Setzler of the 35th, Carson of the 43rd, Morgan of the 39th, Evans of the 40th, Parsons of the 42nd and others:

A BILL to be entitled an Act to amend an Act to create the Acworth Area Convention and Visitors Bureau, approved April 4, 1997 (Ga. L. 1997, p. 3793), so as to change the name of the bureau to the Acworth Tourism Bureau Authority; to provide for change in membership, terms, and vacancy provisions; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

HB 1268. By Representative Smith of the 168th:

A BILL to be entitled an Act to amend an Act entitled "An Act to provide for the election of members of the Board of Education of Bacon County," approved February 20, 1976 (Ga. L. 1976, p. 2713), as amended, particularly by an Act approved May 16, 2007 (Ga. L. 2007, p. 3707), so as to change the description of the education districts; to provide for definitions and inclusions; to provide for continuation in office of current members; to provide for submission of this Act for preclearance under Section 5 of the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

HB 1269. By Representative Smith of the 168th:

A BILL to be entitled an Act to amend an Act to revise and reenact the law creating a Board of Commissioners of Bacon County, approved April 4, 1991 (Ga. L. 1991, p. 4436), as amended, particularly by an Act approved May 16, 2007 (Ga. L. 2007, p. 3718), so as to change the description of the commissioner districts; to define certain terms and provide for certain inclusions; to provide for continuation in office of current members; to

provide for the submission of this Act for preclearance under Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

HB 1270. By Representative Jackson of the 142nd:

A BILL to be entitled an Act to amend an Act providing for a Board of Commissioners of Jefferson County, approved February 23, 1984 (Ga. L. 1984, p. 3627), as amended, so as to change the description of the commissioner districts; to provide for definitions and inclusions; to provide for continuation in office of current members; to provide for submission of this Act for preclearance under Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

HB 1271. By Representatives Lane of the 167th, Atwood of the 179th and Spencer of the 180th:

A BILL to be entitled an Act to amend an Act creating the Brunswick-Glynn County Joint Water and Sewer Commission, approved April 19, 2006 (Ga. L. 2006, p. 3661), so as to provide for immunity for the commission and its officers, agents, and employees; to provide for changes to membership, appointment, election, terms, cooperation, quorum, salaries, and officers of the commission; to provide for notices and hearings to be conducted prior to any increase in rates, fees, tolls, or charges to customers for water or sewer system services; to provide for a performance audit or performance review; to provide for a referendum; to provide for submission of this Act to the United States Department of Justice for preclearance; to provide for contingent repeal; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

HB 1273. By Representative Jackson of the 142nd:

A BILL to be entitled an Act to amend an Act providing for the election of the chairperson and the members of the Board of Education of Jefferson County, approved March 20, 1990 (Ga. L. 1990, p. 4224), as amended, so as to change the description of the education districts; to provide for definitions and inclusions; to provide for continuation in office of current members; to provide for submission of this Act for preclearance under Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

SB 433. By Senator Bethel of the 54th:

A BILL to be entitled an Act to amend an Act creating and establishing the Dalton-Whitfield County Charter and Consolidation Commission, approved May 13, 2011 (Ga. L. 2011, p. 4100), so as to change certain provisions relating to referendum results; to provide for submission under the federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

By unanimous consent, the following Bill of the House was taken up for the purpose of considering the Senate action thereon:

HB 1006. By Representatives Parent of the 81st, Taylor of the 79th, Bell of the 58th, Gardner of the 57th, Henson of the 87th and others:

A BILL to be entitled an Act to amend an Act creating a new charter for the City of Chamblee, approved March 28, 1935 (Ga. L. 1935, p. 944), as amended, so as to change the corporate limits of the city; to provide for a referendum; to provide for related matters; to provide for automatic repeal and a contingent effective date; to repeal conflicting laws; and for other purposes.

The following Senate substitute was read:

A BILL TO BE ENTITLED  
AN ACT

To amend an Act creating a new charter for the City of Chamblee, approved March 28, 1935 (Ga. L. 1935, p. 944), as amended, so as to change the corporate limits of the city; to provide for a referendum; to provide for related matters; to provide for automatic repeal and a contingent effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

An Act creating a new charter for the City of Chamblee, approved March 28, 1935 (Ga. L. 1935, p. 944), as amended, is amended by annexing to the existing corporate limits of the City of Chamblee the following described territory:

"Beginning on the easterly right-of-way line of Clairmont Road at the point where the existing corporate limit line intersects the easterly right-of-way line of Clairmont Road, thence southerly along the easterly right-of-way line of Clairmont Road to a point, said point being the intersection of the easterly right-of-way line of Clairmont Road with the southerly right-of-way line of the access road which runs on the southerly side of Interstate Highway 85 in a northeasterly direction toward Chamblee-Tucker Road, if such access road was extended westerly in a straight line, running thence in a northeasterly direction along the southerly right-of-way line of the said Interstate Highway 85 access road to a point where the southerly right-of-way line of the Interstate Highway 85 access road would intersect the easterly right-of-way line of Chamblee-Tucker Road, if such access road was extended easterly in a straight line; running thence in a northerly and westerly direction along the easterly right-of-way line of Chamblee-Tucker Road to a point, said point being the intersection of the easterly right-of-way line of Chamblee-Tucker Road and the existing corporate limit line of the City of Chamblee at the southeasterly side of Shallowford Road; running thence southerly and westerly along the existing corporate limit line and following the corporate limit line of the City of Chamblee in all its courses, distances, curves, and meanderings so as to reach a point where the said corporate limit line intersects the easterly right-of-way line of Clairmont Road, this being the point of beginning."

**SECTION 2.**

Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election superintendent of DeKalb County shall call and conduct an election as provided in this section for the purpose of submitting this Act to the electors of the territory sought to be annexed into the City of Chamblee under this Act for approval or rejection. The election superintendent shall conduct that election on the Tuesday after the first Monday in November in 2012 and shall issue the call and conduct that election as provided by general law. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the

official organ of DeKalb County. The ballot shall have written or printed thereon the words:

"( ) YES Shall the Act be approved which annexes certain land into the City of  
( ) NO Chamblee?"

All persons desiring to vote for approval of the annexation shall vote "Yes," and all persons desiring to vote for rejection of the annexation shall vote "No." If more than one-half of the votes cast on such question are for approval of the annexation, then this Act shall become effective on December 30, 2012. If more than one-half of the votes cast on such question are for rejection of the annexation, this Act shall not become effective and shall be automatically repealed on the first day of January immediately following that election date. The expense of such election shall be borne by the City of Chamblee. It shall be the election superintendent's duty to certify the result thereof to the Secretary of State.

### SECTION 3.

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

By unanimous consent, the following roll call vote was made applicable to the previously read Bills.

On the passage of the Bills, and on the agreement to the Senate substitute, the roll call was ordered and the vote was as follows:

Y Abdul-Salaam	Y Davis	Y Heckstall	Y Mayo	Y Setzler
Abrams	E Dawkins-Haigler	Y Hembree	Y McBrayer	Y Shaw
Allison	Y Dempsey	E Henson	Y McCall	Y Sheldon
Y Amerson	Y Dickerson	Y Hightower	Y McKillip	Y Sims, B
Y Anderson	Y Dickey	Y Hill	Y Meadows	Sims, C
Y Ashe	Y Dickson	Y Holcomb	Y Mitchell	Y Smith, E
Y Atwood	Y Dobbs	Y Holmes	Y Morgan	Y Smith, K
Y Baker	Y Dollar	Y Holt	Y Morris	Y Smith, L
Y Battles	Y Drenner	Y Horne	Mosby	Y Smith, R
E Beasley-Teague	Y Dudgeon	Y Houston	Y Murphy	Y Smith, T
Y Bell	Y Dukes	Y Howard	Y Neal, J	Y Smyre
Benfield	Y Dunahoo	Hudson	E Neal, Y	Y Spencer
Y Benton	Y Dutton	E Hugley	Y Nimmer	Y Stephens, M
Y Beverly	Y Ehrhart	Y Jackson	Y Nix	Y Stephens, R
Y Black	Y England	Y Jacobs	Oliver	Stephenson
Y Braddock	Y Epps, C	Y James	Y O'Neal	Y Talton
Y Brockway	Y Epps, J	Y Jasperse	Y Pak	Y Tankersley
Y Brooks	Y Evans	Y Jerguson	Y Parent	Y Taylor, D
Y Bruce	E Floyd	Y Johnson	Y Parrish	Y Taylor, R
Bryant	Fludd	Y Jones, J	Y Parsons	Y Taylor, T
E Buckner	Y Frazier	Y Jones, S	Y Peake	Y Teasley
Y Burns	Y Fullerton	E Jordan	Y Powell, A	E Thomas
Byrd	Y Gardner	Y Kaiser	Y Powell, J	Y Waites
Y Carson	Y Geisinger	Y Kendrick	Y Pruett	Y Watson
Y Carter	Y Golick	Y Kidd	Y Purcell	Y Welch

Y Casas	Y Gordon	Y Kirby	Y Ramsey	Y Weldon
E Channell	Y Greene	Y Knight	Y Randall	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lane	Y Reece	Y Wilkinson
Clark, J	Y Hanner	Y Lindsey	Y Rice	Y Willard
Y Clark, V	Y Harbin	Y Long	Y Riley	Y Williams, A
Y Coleman	Y Harden, B	Y Maddox, B	Y Roberts	Y Williams, C
Y Collins	Y Harden, M	Y Maddox, G	Y Rogers, C	Y Williams, E
Y Cooke	Y Harrell	N Manning	Y Rogers, T	Y Williams, R
Y Coomer	Y Hatchett	Y Marin	Y Rynders	Y Williamson
Y Cooper	Y Hatfield	Martin	Y Scott, M	Y Yates
Y Crawford	Y Heard	Y Maxwell	Y Scott, S	Ralston, Speaker

On the passage of the Bills, and on the agreement to the Senate substitute, the ayes were 154, nays 1.

The Bills, having received the requisite constitutional majority, were passed, and the House has agreed to the Senate substitute.

The following message was received from the Senate through Mr. Ewing, the Secretary thereof:

Mr. Speaker:

The Senate has passed by the requisite constitutional majority the following bills of the Senate:

SB 354. By Senator Williams of the 19th:

A BILL to be entitled an Act to amend an Act creating the Board of Commissioners of Toombs County, approved February 13, 1959 (Ga. L. 1959, p. 2010), as amended, particularly by an Act approved March 23, 1977 (Ga. L. 1977, p. 3927), and an Act approved April 28, 2006 (Ga. L. 2006, p. 3808), so as to reconstitute the board of commissioners; to change the description of the commissioner districts; to provide for definitions and inclusions; to provide for continuation in office of current members; to provide for election and terms of office of subsequent members; to provide for submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

SB 519. By Senator Williams of the 19th:

A BILL to be entitled an Act to amend an Act providing for the election of members of the Board of Education of Toombs County, approved March 31, 1987 (Ga. L. 1987, p. 5121), as amended, particularly by an Act approved

May 1, 2002 (Ga. L. 2002, p. 5085), so as to change the description of the education districts; to provide for definitions and inclusions; to provide for the continuation in office of current members; to provide for the submission of this Act for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The Senate has passed by substitute, by the requisite constitutional majority, the following bills of the House:

HB 39. By Representatives Benton of the 31st, England of the 108th, McKillip of the 115th and Walker of the 107th:

A BILL to be entitled an Act to amend Code Section 20-2-690.1 of the Official Code of Georgia Annotated, relating to mandatory education for children between ages six and 16, so as to provide that notice by local school systems to parents relating to unexcused absences may be made by United States mail; to revise provisions relating to content of notice; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 900. By Representative Rice of the 51st:

A BILL to be entitled an Act to amend Article 2 of Chapter 3 of Title 40 of the Official Code of Georgia Annotated, relating to certificates of title for motor vehicles, so as to provide for the cancellation of a certificate of title for scrap metal, dismantled, or demolished trailers in a manner similar to motor vehicles, to help prevent trailer theft by persons seeking to sell stolen trailers for scrap metal; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 1118. By Representative Reece of the 11th:

A BILL to be entitled an Act to provide a new charter for the Town of Trion; to provide for incorporation, boundaries, and powers of the town; to provide for a governing authority of such town and the powers, duties, authority, election, terms, vacancies, compensation, expenses, qualifications, prohibitions, conflicts of interest, and suspension and removal from office relative to members of such governing authority; to provide for inquiries and investigations; to provide for oaths, organization, meetings, quorum, voting, rules, and procedures; to repeal a specific Act; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The Senate has passed by the requisite constitutional majority the following bills of the House:

HB 877. By Representatives Jones of the 46th, Bruce of the 64th, Riley of the 50th, Fludd of the 66th, Martin of the 47th and others:

A BILL to be entitled an Act to amend an Act providing for the number of members and for the election of members of the Board of Education of Fulton County, approved February 10, 1984 (Ga. L. 1984, p. 3591), as amended, particularly by an Act approved March 27, 1992 (Ga. L. 1992, p. 5078), so as to change the description of the education districts; to provide for definitions and inclusions; to provide for the continuation in office of current members; to provide for submission of this Act for preclearance under Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 1015. By Representative Burns of the 157th:

A BILL to be entitled an Act to amend an Act establishing a board of commissioners of roads and revenues for the County of Jenkins, approved August 1, 1911 (Ga. L. 1911, p. 449), as amended, particularly by an Act approved April 3, 1968 (Ga. L. 1968, p. 2960), an Act approved March 31, 1976 (Ga. L. 1976, p. 3643), and an Act approved April 25, 2002 (Ga. L. 2002, p. 4984), so as to revise the districts for the election of members of the board of commissioners; to provide for definitions and inclusions; to provide for terms of office and election; to provide for submission of this Act for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

HB 1057. By Representative Burns of the 157th:

A BILL to be entitled an Act to amend an Act creating a new board of education of Jenkins County, approved April 3, 1968 (Ga. L. 1968, p. 2965), as amended, particularly by an Act approved April 11, 2002 (Ga. L. 2002, p. 3944), and by an Act approved May 5, 2006 (Ga. L. 2006, p. 4584), so as to revise the districts for the election of members of the board of education; to provide for definitions and inclusions; to provide for submission of this Act for preclearance pursuant to the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

HB 1179. By Representative Anderson of the 117th:

A BILL to be entitled an Act to amend an Act creating the Board of Commissioners of Lincoln County, approved February 25, 1949 (Ga. L. 1949, p. 1228), as amended, particularly by an Act approved April 5, 2002 (Ga. L. 2002, p. 4909), so as to change the description of the commissioner districts; to define certain terms and provide for certain inclusions; to provide for continuation in office of current members; to provide for the submission of this Act for preclearance under Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

HB 1180. By Representative Anderson of the 117th:

A BILL to be entitled an Act to amend an Act providing for the election of members of the Board of Education of Lincoln County, approved March 10, 1986 (Ga. L. 1986, p. 3661), as amended, particularly by an Act approved May 13, 2002 (Ga. L. 2002, p. 5766), so as to change the description of the commissioner districts; to define certain terms and provide for certain inclusions; to provide for continuation in office of current members; to provide for the submission of this Act for preclearance under Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

HB 1203. By Representatives Smith of the 122nd, Howard of the 121st, Frazier of the 123rd and Murphy of the 120th:

A BILL to be entitled an Act to amend an Act creating the Augusta-Richmond County Coliseum Authority, approved April 17, 1973 (Ga. L. 1973, p. 3042), as amended, particularly by an Act approved May 11, 2009 (Ga. L. 2009, p. 3873), so as to provide that appointed members of the authority may be reappointed to succeed themselves; to repeal conflicting laws; and for other purposes.

HB 1205. By Representatives Brockway of the 101st and Clark of the 104th:

A BILL to be entitled an Act to amend an Act to create a new Charter for the City of Lawrenceville, Georgia, approved March 28, 1986 (Ga. L. 1986, p. 4961), as amended, so as to change the term of office for the mayor; to change the term of office for city councilmembers; to provide for a transition to the new terms of office; to provide for term limits for the mayor; to provide for term limits for city councilmembers; to repeal conflicting laws; and for other purposes.

HB 1206. By Representatives Randall of the 138th, Peake of the 137th, Dickey of the 136th, Epps of the 140th, Beverly of the 139th and others:

A BILL to be entitled an Act to amend an Act known as the "Macon-Bibb County Transit Authority Act of 1980," approved March 26, 1980, (Ga. L. 1980, p. 4313), as amended, so as to provide for the power of the authority to enter into contracts with counties and municipal corporations to provide public transportation services; to provide for related matters; to repeal conflicting laws; and for other purposes.

The Senate has adopted by the requisite constitutional majority the following resolution of the House:

HR 1162. By Representatives Jones of the 46th, Coleman of the 97th, Lindsey of the 54th, Kaiser of the 59th, Morgan of the 39th and others:

A RESOLUTION proposing an amendment to the Constitution of Georgia so as to clarify the authority of the state to establish state-wide education policy; to restate the authority of the General Assembly to create special schools; to delineate types of schools that the General Assembly may authorize and clarify funding authority; to provide for the submission of this amendment for ratification or rejection; and for other purposes.

By unanimous consent, the following Bills of the Senate were read the first time and referred to the Committees:

SB 354. By Senator Williams of the 19th:

A BILL to be entitled an Act to amend an Act creating the Board of Commissioners of Toombs County, approved February 13, 1959 (Ga. L. 1959, p. 2010), as amended, particularly by an Act approved March 23, 1977 (Ga. L. 1977, p. 3927), and an Act approved April 28, 2006 (Ga. L. 2006, p. 3808), so as to reconstitute the board of commissioners; to change the description of the commissioner districts; to provide for definitions and inclusions; to provide for continuation in office of current members; to provide for election and terms of office of subsequent members; to provide for submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

SB 519. By Senator Williams of the 19th:

A BILL to be entitled an Act to amend an Act providing for the election of members of the Board of Education of Toombs County, approved March 31, 1987 (Ga. L. 1987, p. 5121), as amended, particularly by an Act approved May 1, 2002 (Ga. L. 2002, p. 5085), so as to change the description of the education districts; to provide for definitions and inclusions; to provide for the continuation in office of current members; to provide for the submission of this Act for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Committee on Intragovernmental Coordination - Local.

The following members were recognized during the period of Morning Orders and addressed the House:

Representatives Morris of the 155th, Parrish of the 156th, Coleman of the 97th, Williams of the 113th, Waites of the 60th, Williamson of the 111th, Buckner of the 130th, Baker of the 78th, Kaiser of the 59th, Abdul-Salaam of the 74th, and Neal of the 1st.

Pursuant to HR 1820, the House recognized and commended Dr. Traci McKenzie-Jackson.

Pursuant to HR 1678, the House commended Curtis Lee Atkinson and invited him to be recognized by the House of Representatives.

Pursuant to HR 1246, the House recognized March 20, 2012, as Alpha Kappa Alpha Day at the capitol.

Representative Rogers of the 26th District, Chairman of the Committee on Higher Education, submitted the following report:

Mr. Speaker:

Your Committee on Higher Education has had under consideration the following Bills of the Senate and has instructed me to report the same back to the House with the following recommendations:

SB 302      Do Pass  
SB 405      Do Pass

Respectfully submitted,  
/s/ Rogers of the 26th  
Chairman

Representative Benton of the 31st District, Chairman of the Committee on Human Relations and Aging, submitted the following report:

Mr. Speaker:

Your Committee on Human Relations and Aging has had under consideration the following Resolution of the House and has instructed me to report the same back to the House with the following recommendation:

HR 1722 Do Pass, by Substitute

Respectfully submitted,  
/s/ Benton of the 31st  
Chairman

The following Bill of the House was taken up for the purpose of considering the Senate action thereon:

HB 868. By Representatives Collins of the 27th, Carter of the 175th, Atwood of the 179th, Hatchett of the 143rd, Clark of the 98th and others:

A BILL to be entitled an Act to amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, computation, and exemptions from state income tax, so as to provide for the comprehensive revision of income tax credits for business enterprises located in less developed areas, designated by tiers, for business enterprises located in less developed areas consisting of contiguous census tracts, for existing manufacturing and telecommunications facilities located in certain tier counties, and for establishing new quality jobs or relocating quality jobs; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following Senate substitute was read:

A BILL TO BE ENTITLED  
AN ACT

To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, computation, and exemptions from state income tax, so as to provide for the comprehensive revision of income tax credits for business enterprises

located in less developed areas, designated by tiers, for business enterprises located in less developed areas consisting of contiguous census tracts, for existing manufacturing and telecommunications facilities located in certain tier counties, and for establishing new quality jobs or relocating quality jobs; to provide for procedures, conditions, and limitations; to change certain provisions so as to correct certain cross-references; to provide for an extended job creation period for certain companies; to clarify conditions and limitations on jobs created when a company is acquired; to provide for an effective date and applicability; to provide that this Act shall not abate or affect prosecutions, punishments, penalties, administrative proceedings or remedies, or civil actions related to certain violations; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, computation, and exemptions from state income tax, is amended by revising subsections (a), (e), (f), (h), and (l) of Code Section 48-7-40, relating to designation of counties as less developed areas, as follows:

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

(1) 'Broadcasting' means the transmission or licensing of audio, video, text, or other programming content to the general public, subscribers, or to third parties via radio, television, cable, satellite, or the Internet or Internet Protocol and includes motion picture and sound recording, editing, production, postproduction, and distribution. 'Broadcasting' is limited to establishments classified under the 2007 North American Industry Classification System Codes 515, broadcasting; 519, Internet publishing and broadcasting; 517, telecommunications; and 512, motion picture and sound recording industries.

(2) 'Business enterprise' means any business or the headquarters of any such business which is engaged in manufacturing, including, but not limited to, the manufacturing of alternative energy products for use in solar, wind, battery, bioenergy, biofuel, and electric vehicle enterprises, warehousing and distribution, processing, telecommunications, broadcasting, tourism, research and development industries, biomedical manufacturing, and services for the elderly and persons with disabilities. Such term shall not include retail businesses. Businesses are eligible for the tax credit provided by this Code section at an individual establishment of the business based on the classification of the individual establishment under the North American Industry Classification System. For purposes of this Code section, the term 'establishment' means an economic unit at a single physical location where business is conducted or where services or industrial operations are performed. If more than one business activity is conducted at the establishment, then only those jobs engaged in the qualifying activity will be eligible for the tax credit provided by this Code section.

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

(4) 'Existing business enterprise' means any business or the headquarters of any such business which has operated for the immediately preceding three years a facility in this state which is engaged in manufacturing, including, but not limited to, the manufacturing of alternative energy products for use in solar, wind, battery, bioenergy, biofuel, and electric vehicle enterprises, warehousing and distribution, processing, telecommunications, broadcasting, tourism, biomedical manufacturing, or research and development industries. Such term shall not include retail businesses. Businesses are eligible for the tax credit provided by this Code section at an individual establishment of the business based on the classification of the individual establishment under the North American Industry Classification System. For purposes of this Code section, the term 'establishment' means an economic unit at a single physical location where business is conducted or where services or industrial operations are performed. If more than one business activity is conducted at the establishment, then only those jobs engaged in the qualifying activity will be eligible for the tax credit provided by this Code section.

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

"(e)(1) Business enterprises in counties designated by the commissioner of community affairs as tier 1 counties shall be allowed a tax credit for taxes imposed under this article equal to \$3,500.00 annually per eligible new full-time employee job for five years beginning with the first taxable year in which the new full-time employee job is created and for the four immediately succeeding taxable years; provided, however, that where the amount of such credit exceeds a business enterprise's liability for such taxes 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 but not to exceed in any one taxable year \$3,500.00 for each new full-time employee job when aggregated with the credit applied against taxes under this article. Each employee whose employer receives credit against such business enterprise's quarterly or monthly payment under Code Section 48-7-103 shall receive credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount which would be credited against such liability prior to the application of the credit provided for in this paragraph. Credits against quarterly or monthly payments under Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established by this paragraph shall not constitute income to the taxpayer. Business enterprises in counties designated by the

commissioner of community affairs as tier 2 counties shall be allowed a job tax credit for taxes imposed under this article equal to \$2,500.00 annually, business enterprises in counties designated by the commissioner of community affairs as tier 3 counties shall be allowed a job tax credit for taxes imposed under this article equal to \$1,250.00 annually, and business enterprises in counties designated by the commissioner of community affairs as tier 4 counties shall be allowed a job tax credit for taxes imposed under this article equal to \$750.00 annually for each new full-time employee job for five years beginning with the first taxable year in which the new full-time employee job is created and for the four immediately succeeding taxable years. Where a business enterprise is engaged in a competitive project located in a county designated by the commissioner of community affairs as a tier 2 county and where the amount of the credit provided in this paragraph exceeds such business enterprise's liability for taxes imposed under this article in a taxable year, or where a business enterprise is engaged in a competitive project located in a county designated by the commissioner of community affairs as a tier 3 or tier 4 county and where the amount of the credit provided in this paragraph exceeds 50 percent of such business enterprise's liability for taxes imposed under 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 but not to exceed in any one taxable year \$2,500.00 for each new full-time employee job when aggregated with the credit applied against taxes under this article. Each employee whose employer receives credit against such business enterprise's quarterly or monthly payment under Code Section 48-7-103 shall receive credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount which would be credited against such liability prior to the application of the credit provided for in this paragraph. Credits against quarterly or monthly payments under Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established by this paragraph shall not constitute income to the taxpayer. The number of new full-time employee jobs shall be determined by comparing the monthly average number of full-time employees subject to Georgia income tax withholding for the taxable year with the corresponding period of the prior taxable year. In tier 1 counties, those business enterprises that increase employment by ~~five~~ two or more shall be eligible for the credit. In tier 2 counties, only those business enterprises that increase employment by ten or more shall be eligible for the credit. In tier 3 counties, only those business enterprises that increase employment by 15 or more shall be eligible for the credit. In tier 4 counties, only those business enterprises that increase employment by 25 or more shall be eligible for the credit. The average wage of the new jobs created must be above the average wage of the county that has the lowest average wage of any county in the state to qualify as reported in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor. To qualify for a credit under this paragraph, the employer must make health insurance coverage available to the employee filling the new full-time employee job; provided, however, that nothing in this paragraph shall be construed to

require the employer to pay for all or any part of health insurance coverage for such an employee in order to claim the credit provided for in this paragraph if such employer does not pay for all or any part of health insurance coverage for other employees. Credit shall not be allowed during a year if the net employment increase falls below the number required in such tier. ~~In any year in which the net employment increase falls below the number required in such tier, the taxpayer shall forfeit the right to the credit claimed for that taxable year. For the year that the net employment increase falls below the number required in such tier, a taxpayer that forfeits such right is therefore liable for all past taxes imposed by this article for that taxable year and all past payments under Code Section 48-7-103 for that taxable year that were foregone by the state as a result of the credits provided by this Code section; provided, however, that Code Section 48-2-40 shall not apply to any such forfeiture.~~ The state revenue commissioner shall adjust the credit allowed each year for net new employment fluctuations above the minimum level of the number required in such tier.

(2) Existing business enterprises shall be allowed an additional tax credit for taxes imposed under this article equal to \$500.00 per eligible new full-time employee job the first year in which the new full-time employee job is created. The additional credit shall be claimed in the first taxable year in which the new full-time employee job is created. The number of new full-time employee jobs shall be determined by comparing the monthly average number of full-time employees subject to Georgia income tax withholding for the taxable year with the corresponding period of the prior taxable year. In tier 1 counties, those existing business enterprises that increase employment by five or more shall be eligible for the credit. In tier 2 counties, only those existing business enterprises that increase employment by ten or more shall be eligible for the credit. In tier 3 counties, only those existing business enterprises that increase employment by 15 or more shall be eligible for the credit. In tier 4 counties, only those existing business enterprises that increase employment by 25 or more shall be eligible for the credit. The average wage of the new jobs created must be above the average wage of the county that has the lowest average wage of any county in the state to qualify as reported in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor. To qualify for a credit under this paragraph, the employer must make health insurance coverage available to the employee filling the new full-time job; provided, however, that nothing in this paragraph shall be construed to require the employer to pay for all or any part of health insurance coverage for such an employee in order to claim the credit provided for in this paragraph if such employer does not pay for all or any part of health insurance coverage for other employees. Credit shall not be allowed during a year if the net employment increase falls below the number required in such tier. Any credit generated and utilized for years prior to the year in which the net employment increase falls below the number required in such tier shall not be affected. The state revenue commissioner shall adjust the credit allowed each year for net new employment fluctuations above the minimum level of the number required in

such tier. This paragraph shall apply only to new eligible full-time jobs created in taxable years beginning on or after January 1, 2006, and ending no later than taxable years beginning prior to January 1, 2011.

(f) Tax credits for ~~four~~ five years for the taxes imposed under this article shall be awarded for additional new full-time employee jobs created by business enterprises qualified under subsection (b), (c), or (c.1) of this Code section. Additional new full-time employee jobs shall be determined by subtracting the highest total employment of the business enterprise during years two through five, or whatever portion of years two through five which has been completed, from the total increased employment. The state revenue commissioner shall adjust the credit allowed in the event of employment fluctuations during the five years of credit."

~~"(h)(1) Except as provided in paragraph (2) of this subsection, any~~ Any credit claimed under 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, subject to forfeiture as provided in paragraph (1) of subsection (e) of this Code section, but in tiers 3 and 4 the credit established by this Code section taken in any one taxable year shall be limited to an amount not greater than 50 percent of the taxpayer's state income tax liability which is attributable to income derived from operations in this state for that taxable year. In tier 1 and 2 counties, the credit allowed under this Code section against taxes imposed under this article in any taxable year shall be limited to an amount not greater than 100 percent of the taxpayer's state income tax liability attributable to income derived from operations in this state for such taxable year.

~~(2) The additional credit claimed by an existing business enterprise pursuant to the provisions of paragraph (2) of subsection (e) of this Code section must be applied against taxes imposed for the taxable year in which such credit is available and may not be carried forward to any subsequent taxable year."~~

"(1) Taxpayers that initially claimed the credit under this Code section for any taxable year beginning before January 1, ~~2009~~ 2012, shall be governed, for purposes of all such credits claimed as well as any credits claimed in subsequent taxable years related to such initial claim, by this Code section as it was in effect for the taxable year in which the taxpayer made such initial claim."

## SECTION 2.

Said article is further amended by revising subsections (a), (e), (f), and (j) of Code Section 48-7-40.1, relating to tax credits for business enterprises located in less developed areas, as follows:

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

(1) 'Broadcasting' means the transmission or licensing of audio, video, text, or other programming content to the general public, subscribers, or to third parties via radio, television, cable, satellite, or the Internet or Internet Protocol and includes motion picture and sound recording, editing, production, postproduction, and distribution. 'Broadcasting' is limited to establishments classified under the 2007 North American

Industry Classification System Codes 515, broadcasting; 519, Internet publishing and broadcasting; 517, telecommunications; and 512, motion picture and sound recording industries.

(2) 'Business enterprise' means any business or the headquarters of any such business which is engaged in manufacturing, including, but not limited to, the manufacturing of alternative energy products for use in solar, wind, battery, bioenergy, biofuel, and electric vehicle enterprises, warehousing and distribution, processing, telecommunications, broadcasting, tourism, biomedical manufacturing, and research and development industries. Such term shall not include retail businesses. Businesses are eligible for the tax credit provided by this Code section at an individual establishment of the business based on the classification of the individual establishment under the North American Industry Classification System. For purposes of this Code section, the term 'establishment' means an economic unit at a single physical location where business is conducted or where services or industrial operations are performed. If more than one business activity is conducted at the establishment, then only those jobs engaged in the qualifying activity will be eligible for the tax credit provided by this Code section."

"(e) Business enterprises in areas designated by the commissioner of community affairs as less developed areas shall be allowed a job tax credit for taxes imposed under this article equal to \$3,500.00 annually per eligible new full-time employee job for five years beginning with the first taxable year in which the new full-time employee job is created and for the four immediately succeeding taxable years; provided, however, that where the amount of such credit exceeds a business enterprise's liability for such taxes 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 but not to exceed in any one taxable year \$3,500.00 for each new full-time employee job when aggregated with the credit applied against taxes under this article. Each employee whose employer receives credit against such business enterprise's quarterly or monthly payment under Code Section 48-7-103 shall receive credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount which would be credited against such liability prior to the application of the credit provided for in this subsection. Credits against quarterly or monthly payments under Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established by this subsection shall not constitute income to the taxpayer. The number of new full-time jobs shall be determined by comparing the monthly average number of full-time employees subject to Georgia income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those business enterprises that increase employment by five or more in a less developed area shall be eligible for the credit; provided, however, that within areas of pervasive poverty as designated under paragraphs (2) and (4) of subsection (c) of this Code section businesses shall only have to increase employment by two or more jobs in order to be eligible for the credit, provided that, if a business only increases employment by two jobs, the persons hired for such jobs

shall not be married to one another. The average wage of the new jobs created must be above the average wage of the county that has the lowest wage of any county in the state to qualify as reported in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor. To qualify for a credit under this subsection, the employer must make health insurance coverage available to the employee filling the new full-time job; provided, however, that nothing in this subsection shall be construed to require the employer to pay for all or any part of health insurance coverage for such an employee in order to claim the credit provided for in this subsection if such employer does not pay for all or any part of health insurance coverage for other employees. Credit shall not be allowed during a year if the net employment increase falls below five or two, as applicable. ~~In any year in which the net employment increase falls below five or two, as applicable, the taxpayer shall forfeit the right to the credit claimed for that taxable year. For the year that the net employment increase falls below five or two, as applicable, a taxpayer that forfeits such right is therefore liable for all past taxes imposed by this article for that taxable year and all past payments under Code Section 48-7-103 for that taxable year that were foregone by the state as a result of the credits provided by this Code section; provided, however that Code Section 48-2-40 shall not apply to any such forfeiture.~~ The state revenue commissioner shall adjust the credit allowed each year for net new employment fluctuations above the minimum level of five or two.

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

"(j) Taxpayers that initially claimed the credit under this Code section for any taxable year beginning before January 1, ~~2009~~ 2012, shall be governed, for purposes of all such credits claimed as well as any credits claimed in subsequent taxable years related to such initial claim, by this Code section as it was in effect for the taxable year in which the taxpayer made such initial claim."

### SECTION 3.

Said article is further amended by revising subsection (e) of Code Section 48-7-40.12, relating to tax credit for qualified research expenses, as follows:

"(e) ~~In the first five years of a newly formed business enterprise's operations in this state, where~~ Where the amount of a credit claimed under this Code section exceeds 50 percent of a ~~taxpayer's liability for such taxes~~ the business enterprise's remaining Georgia net income tax liability after all other credits have been applied in a taxable year, the excess may be taken as a credit against such taxpayer's quarterly or monthly payment under Code Section 48-7-103. Each employee whose employer receives credit

against such taxpayer's quarterly or monthly payment under Code Section 48-7-103 shall receive a credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount which would be credited against such liability prior to the application of the credit provided for in this subsection. Credits against quarterly or monthly payments under Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established by this subsection shall not constitute income to the taxpayer."

#### SECTION 4.

Said article is further amended by revising Code Section 48-7-40.15, relating to alternative tax credits for base year port traffic increases, as follows:

"48-7-40.15.

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

(1) 'Base year port traffic' means:

(A) For taxable years beginning prior to January 1, 2010, the total amount of net tons, containers, or twenty-foot equivalent units (TEU's) of product actually transported by way of a waterborne ship or vehicle through a port facility during the period from January 1, 1997, through December 31, 1997; provided, however, that in the event the total amount actually transported during such period was not at least 75 net tons, five containers, or ten twenty-foot equivalent units (TEU's), then 'base year port traffic' means 75 net tons, five containers, or ten twenty-foot equivalent units (TEU's).

(B) For all taxable years beginning on or after January 1, 2010, the total amount of net tons, containers, or twenty-foot equivalent units (TEU's) of product actually imported into this state or exported out of this state by way of a waterborne ship or vehicle through a port facility during the second preceding 12 month period; provided, however, that in the event the total amount actually imported into this state or exported out of this state during such period was not at least 75 net tons, five containers, or ten twenty-foot equivalent units (TEU's), then 'base year port traffic' means 75 net tons, five containers, or ten twenty-foot equivalent units (TEU's).

(2) 'Broadcasting' means the transmission or licensing of audio, video, text, or other programming content to the general public, subscribers, or to third parties via radio, television, cable, satellite, or the Internet or Internet Protocol and includes motion picture and sound recording, editing, production, postproduction, and distribution. 'Broadcasting' is limited to establishments classified under the 2007 North American Industry Classification System Codes 515, broadcasting; ~~516~~, 519, Internet publishing and broadcasting; 517, telecommunications; and 512, motion picture and sound recording industries.

(3) 'Business enterprise' means any business or the headquarters of any such business which is engaged in manufacturing, including, but not limited to, the manufacturing of alternative energy products for use in solar, wind, battery, bioenergy, biofuel, and electric vehicle enterprises, warehousing and distribution, processing, telecommunications, broadcasting, tourism, biomedical manufacturing, and research

and development industries. Such term ~~but~~ shall not include retail businesses. Businesses are eligible for the tax credit provided by subsection (b) of this Code section at an individual establishment of the business based on the classification of the individual establishment under the North American Industry Classification System. For purposes of this Code section, the term 'establishment' means an economic unit at a single physical location where business is conducted or where services or industrial operations are performed. If more than one business activity is conducted at the establishment, then only those jobs engaged in the qualifying activity will be eligible for the tax credit provided by this Code section.

(4) 'Port facility' means any privately owned or publicly owned facility located within this state through which product is transported by way of a waterborne ship or vehicle to or from destinations outside this state.

(5) 'Port traffic' means:

(A) For taxable years beginning prior to January 1, 2010, the total amount of net tons, containers, or twenty-foot equivalent units (TEU's) of product transported by way of a waterborne ship or vehicle through a port facility.

(B) For all taxable years beginning on or after January 1, 2010, the total amount of net tons, containers, or twenty-foot equivalent units (TEU's) of product imported into this state or exported out of this state by way of a waterborne ship or vehicle through a port facility.

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

(7) 'Qualified investment property' means all real and personal property purchased or acquired by a taxpayer for use in the construction of an additional manufacturing or telecommunications facility to be located in this state or in the expansion of an existing manufacturing or telecommunications facility located in this state, including, but not limited to, moneys expended on land acquisition, improvements, buildings, building improvements, and machinery and equipment to be used in the manufacturing or telecommunications facility. The department shall promulgate rules defining eligible manufacturing facilities, telecommunications facilities, and qualified investment property pursuant to this Code section.

(b)(1) In the case of any business enterprise which has increased its port traffic of products during the previous 12 month period by more than 10 percent above its base year port traffic and is qualified to claim a job tax credit under Code Section 48-7-40 or 48-7-40.1 for jobs added at any time on or after January 1, 1998, there shall be allowed an additional \$1,250.00 job tax credit against the tax imposed under this article.

(2) The tax credit described in this subsection shall 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, that such credit shall not be allowed during a year if the port traffic does not remain above the minimum level established in this Code section.

(c) In the case of any business enterprise which has increased its port traffic of products during the previous 12 month period by more than 10 percent above its base year port traffic and is qualified to claim a tax credit under Code Section 48-7-40.2, 48-7-40.3, 48-7-40.4, 48-7-40.7, 48-7-40.8, or 48-7-40.9 upon qualified investment property added at any time on or after January 1, 1998, there shall be allowed a credit against the tax imposed under this article in an amount equal to the applicable percentage amount otherwise allowed under Code Section 48-7-40.2 or 48-7-40.7 to business enterprises for the cost of such property. The tax credit described in this subsection shall be allowed subject to the conditions and limitations set forth in Code Section 48-7-40.2 or 48-7-40.7, as applicable, except that such property may be placed in service in any county without regard to its tier designation. Such credit shall also be in lieu of and not in addition to the credit authorized under Code Sections 48-7-40.2, 48-7-40.3, 48-7-40.4, 48-7-40.7, 48-7-40.8, and 48-7-40.9.

(d) No business enterprise shall be authorized to claim the credits provided for in both subsections (b) and (c) of this Code section on a tax return for any taxable year unless such business enterprise has increased its port traffic of products during the previous 12 month period by more than 20 percent above its base year port traffic, has increased employment by 400 or more no sooner than January 1, 1998, and has purchased or acquired qualified investment property having an aggregate cost in excess of \$20 million no sooner than January 1, 1998.

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

(1) For every year in which a taxpayer claims the credit, the taxpayer shall attach a schedule to the taxpayer's state income tax return which shall set forth the following information, as a minimum, in addition to the information required under Code Sections 48-7-40, 48-7-40.1, and 48-7-40.2 or 48-7-40.7:

(A) A description of how the base year port traffic and the increase in port traffic was determined;

(B) The amount of the base year port traffic;

(C) The amount of the increase in port traffic for the taxable year, including information which demonstrates an increase in port traffic in excess of the minimum amount required to claim the tax credit under this Code section;

(D) Any tax credit utilized by the taxpayer in prior years;

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

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

(G) The amount of tax credit to be carried over to subsequent tax years.

(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.

(B) Any tax credit claimed under subsection (c) of this Code section in lieu of Code Section 48-7-40.2, 48-7-40.3, or 48-7-40.4 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 investment property was acquired, provided that the increase in port traffic remains above the minimum level established in this Code section and the qualified investment property remains in service.

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

(B) The tax credit established by this Code section in lieu of Code Section 48-7-40.2, 48-7-40.3, or 48-7-40.4 and taken in any one taxable year shall be limited to an amount not greater than 50 percent of the taxpayer's state income tax liability which is attributable to income derived from operations in this state for that taxable year.

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

(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 5.**

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

"48-7-40.17.

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

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

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

(A) Is located in this state;

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

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

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

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

(b) A taxpayer establishing new quality jobs in this state or relocating quality jobs into this state which elects not to receive the tax credits provided for by Code Sections 48-7-40, 48-7-40.1, 48-7-40.2, 48-7-40.3, 48-7-40.4, 48-7-40.7, 48-7-40.8, and 48-7-40.9 for such jobs and investments created by, arising from, related to, or connected in any way with the same project and, within one year of the first date on which the taxpayer pursuant to the provisions of Code Section 48-7-101 withholds wages for employees in this state and employs at least 50 persons in new quality jobs in this state, shall be allowed a credit for taxes imposed under this article:

- (1) Equal to \$2,500.00 annually per eligible new quality job where the job pays 110 percent or more but less than 120 percent of the average wage of the county in which the new quality job is located;
- (2) Equal to \$3,000.00 annually per eligible new quality job where the job pays 120 percent or more but less than 150 percent of the average wage of the county in which the new quality job is located;
- (3) Equal to \$4,000.00 annually per eligible new quality job where the job pays 150 percent or more but less than 175 percent of the average wage of the county in which the new quality job is located;
- (4) Equal to \$4,500.00 annually per eligible new quality job where the job pays 175 percent or more but less than 200 percent of the average wage of the county in which the new quality job is located; and
- (5) Equal to \$5,000.00 annually per eligible new quality job where the job pays 200 percent or more of the average wage of the county in which the new quality job is located;

provided, however, that where the amount of such credit exceeds a taxpayer's liability for such taxes in a taxable year, the excess may be taken as a credit against such taxpayer's quarterly or monthly payment under Code Section 48-7-103 but not to exceed in any one taxable year the credit amounts in paragraphs (1) through (5) of this subsection for each new quality job when aggregated with the credit applied against taxes under this article. Each employee whose employer receives credit against such taxpayer's quarterly or monthly payment under Code Section 48-7-103 shall receive a credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount which would be credited against such liability prior to the application of the credit provided for in this subsection. Credits against quarterly or monthly payments under Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established by this subsection shall not constitute income to the taxpayer. For each new quality job created, the credit established by this subsection may be taken for the first taxable year in which the new quality job is created and for the four immediately succeeding taxable years; provided, however, that such new quality jobs must be created within seven years from the close of the taxable year in which the taxpayer first becomes eligible for such credit. Credit shall not be allowed during a year if the net employment increase falls below the 50 new quality jobs required. Any credit received for years prior to the year in which the net

employment increase falls below the 50 new quality jobs required shall not be affected except as provided in subsection (f) of this Code section. The state revenue commissioner shall adjust the credit allowed each year for net new employment fluctuations above the 50 new quality jobs required.

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

(d) Any credit claimed under 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 new quality jobs were established.

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

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

~~(g)~~ Taxpayers that initially claimed the credit under this Code section for any taxable year beginning before January 1, ~~2009~~ 2012, shall be governed, for purposes of all such credits claimed as well as any credits claimed in subsequent taxable years related to such initial claim, by this Code section as it was in effect for the taxable year in which the taxpayer made such initial claim.

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

#### SECTION 6.

Said article is further amended by revising Code Section 48-7-40.24, relating to the job tax credit for business enterprises, to read as follows:

"48-7-40.24.

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

(1) 'Business enterprise' means any enterprise or organization, whether corporation, partnership, limited liability company, proprietorship, association, trust, business trust, real estate trust, or other form of organization which is registered and authorized to use the federal employment verification system known as 'E-Verify' or any successor federal employment verification system and is engaged in or carrying on any business activities within this state, except that such term shall not include retail businesses.

(2) 'Eligible full-time employee' means an individual holding a full-time employee job created by a qualified project who:

- (A) Possesses a valid Georgia driver's license or identification card issued by the Georgia Department of Driver Services; or
- (B) Submits a notarized affidavit swearing to be a United States citizen or lawfully present alien authorized to work in the United States.

(3) 'Force majeure' means any:

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

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

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

- ~~(A)~~(i) Is located in this state at the site or sites of a qualified project or the facility or facilities resulting therefrom;
- ~~(B)~~(ii) Involves a regular work week of 35 hours or more;
- ~~(C)~~(iii) Has no predetermined end date; and
- ~~(D)~~(iv) Pays at or above the average wage of the county with the lowest average wage in the state, as reported in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor.

(B) For purposes of this paragraph:

(i) ~~leased~~ Leased employees ~~will~~ shall be considered employees of the company using their services and such persons may be counted in determining the company's job tax credits under this Code section if their employment otherwise ~~meets the definition of full-time job contained herein.~~ satisfies subparagraph (A) of this paragraph;

(ii) ~~In addition, an~~ An individual's employment shall not be deemed to have a predetermined end date solely by virtue of a mandatory retirement age set forth in a company policy of general application. The employment of any individual in a bona fide executive, administrative, or professional capacity, within the meaning of Section 13 of the federal Fair Labor Standards Act of 1938, as amended, 29 U.S.C. Section 213(a)(1), as such act existed on January 1, 2002, shall not be deemed to have a predetermined end date solely by virtue of the fact that such

employment is pursuant to a fixed-term contract, provided that such contract is for a term of not less than one year; and

(iii) When there is a merger or acquisition of another company by a business enterprise whose application for a qualified project has been approved, the existing jobs in this state shall not be counted in calculating the job creation requirement and the credit calculation necessary to qualify for the tax credit under this Code section. Only additional jobs added in this state that meet the requirements of this Code section shall be counted for purposes of calculating the job creation requirement and the credit calculation.

(5) 'Job creation requirement' means the requirement that no later than the close of the sixth taxable year following the withholding start date, the business enterprise will have a minimum of 1,800 eligible full-time employees. If at the close of the sixth taxable year following the withholding start date a minimum of \$600 million in qualified investment property has been purchased or acquired by the business enterprise to be used with respect to a qualified project, the job creation requirement shall be extended for an additional two-year period. If at the close of the eighth taxable year following the withholding start date a minimum of \$800 million in qualified investment property has been purchased or acquired by the business enterprise to be used with respect to a qualified project, the job creation requirement shall be extended for an additional four-year period after the sixth taxable year following the withholding start date.

(6) 'Job maintenance requirement' means the requirement that, with respect to each year in the recapture period, the monthly average number of eligible full-time employees employed by the business enterprise, determined as prescribed by subsection (1) of this Code section, must equal or exceed 1,800.

(7) 'Payroll maintenance requirement' means the requirement that, with respect to each year in the recapture period, the total annual Georgia W-2 reported payroll with respect to a qualified project must equal or exceed \$150 million.

(8) 'Payroll requirement' means the requirement that no later than the close of the sixth taxable year following the withholding start date, the business enterprise will have a minimum of \$150 million in total annual Georgia W-2 reported payroll with respect to a qualified project.

(9) 'Qualified investment property' means all real and personal property purchased or acquired by a taxpayer for use in a qualified project, including, but not limited to, amounts expended on land acquisition, improvements, buildings, building improvements, and any personal property to be used in the facility or facilities.

(10) 'Qualified investment property requirement' means the requirement that by the close of the sixth taxable year following the withholding start date, a minimum of \$450 million in qualified investment property will have been purchased or acquired by the business enterprise to be used with respect to a qualified project.

(11) 'Qualified project' means a project which meets the job creation requirement and either the payroll requirement or qualified investment property requirement. If the taxpayer selects the qualified investment property requirement as one of the

conditions for its project, the property shall involve the construction of one or more new facilities in this state or the expansion of one or more existing facilities in this state. For purposes of this paragraph, the term 'facilities' means all facilities comprising a single project, including noncontiguous parcels of land, improvements to such land, buildings, building improvements, and any personal property that is used in the facility or facilities.

(12) 'Recapture period' means the period of five consecutive taxable years that commences after the first taxable year in which a business enterprise has satisfied the job creation requirement and either the payroll requirement or the qualified investment property requirement, as selected by the taxpayer.

(13) 'Withholding start date' means the date on which the business enterprise begins to withhold Georgia income tax from the wages of its employees located at the site or sites of a qualified project.

(b) A business enterprise that is planning a qualified project shall be allowed to take the job tax credit provided by this Code section under the following conditions:

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

(A) Describes the qualified project to be undertaken by the business enterprise, including when such project will commence and the expected withholding start date;

(B) Certifies that such project will meet the job creation requirement and either the payroll requirement or the qualified investment property requirement prescribed by this Code section; and

(C) Certifies that during the recapture period applicable to such project the business enterprise will meet the job maintenance requirement and, if applicable, the payroll maintenance requirement prescribed by this Code section;

(2) Following the commissioner's referral of the application to a panel composed of the commissioner of community affairs, the commissioner of economic development, and the director of the Office of Planning and Budget, ~~said~~ the panel, after reviewing the application, certifies that the new or expanded facility or facilities will have a significant beneficial economic effect on the region for which they are planned. The panel shall make its determination within 30 days after receipt from the commissioner of the taxpayer's application and any necessary supporting documentation. Although the panel's certification may be based upon other criteria, a project that meets the minimum job creation requirement and either the payroll requirement or qualified investment property requirement, as applicable, specified in paragraph (1) of this subsection will have a significant beneficial economic effect on the region for which it is planned if one of the following additional criteria is met:

(A) The project will create new full-time employee jobs with average wages that are, as determined by the Department of Labor, for all jobs for the county in question:

(i) Twenty percent above such average wage for projects located in tier 1 counties;

(ii) Ten percent above such average wage for projects located in tier 2 counties; or

- (iii) Five percent above such average wage for projects located in tier 3 or tier 4 counties; or
- (B) The project demonstrates high growth potential based upon the prior year's Georgia net taxable income growth of over 20 percent from the previous year, if the taxpayer's Georgia net taxable income in each of the two preceding years also grew by 20 percent or more.
- (c) Any lease for a period of five years or longer of any real or personal property used in a new or expanded facility or facilities which would otherwise constitute qualified investment property shall be treated as the purchase or acquisition thereof by the lessee. The taxpayer may treat the full value of the leased property as qualified investment property in the year in which the lease becomes binding on the lessor and the taxpayer.
- (d) A business enterprise whose application is approved shall be allowed a tax credit for taxes imposed under this article equal to \$5,250.00 annually per new eligible full-time employee job for five years beginning with the year in which such job is created through year five after such creation; provided, however, that where the amount of such credit exceeds a business enterprise's liability for such taxes 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. The taxpayer may file an election with the commissioner to take such credit against quarterly or monthly payments under Code Section 48-7-103 that become due before the due date of the income tax return on which such credit may be claimed. In the event of such an election, the commissioner shall confirm with the taxpayer a date, which shall not be later than 30 days after receipt of the taxpayer's election, when the taxpayer may begin to take the credit against such quarterly or monthly payments. For any one taxable year the amounts taken as a credit against taxes imposed under this article and against the business enterprise's quarterly or monthly payments under Code Section 48-7-103 may not in the aggregate exceed \$5,250.00 per eligible full-time employee job. Each employee whose employer receives credit against such business enterprise's quarterly or monthly payment under Code Section 48-7-103 shall receive a credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount which would be credited against such liability prior to the application of the credit provided for in this subsection. Credits against quarterly or monthly payments under Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established by this subsection shall not constitute income to the taxpayer. To qualify for a credit under this subsection, the employer must make health insurance coverage available to the employee filling the new full-time job; provided, however, that nothing in this subsection shall be construed to require the employer to pay for all or any part of health insurance coverage for such an employee in order to claim the credit provided for in this subsection if such employer does not pay for all or any part of health insurance coverage for other employees.
- (e) The number of new full-time jobs to which this Code section shall be applicable shall be determined by comparing the monthly average number of eligible full-time

employees subject to Georgia income tax withholding for the taxable year with the corresponding period for the prior taxable year.

(f) ~~The~~ Subject to the requirements of division (a)(4)(B)(iii) of this Code section, the sale, merger, acquisition, or bankruptcy of any business enterprise shall not create new eligibility in any succeeding business entity, but any unused job tax credit may be transferred and continued by any transferee of the business enterprise.

(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.

(h) Any credit claimed under this Code section but not fully used in the manner prescribed in subsection (d) of this Code section may be carried forward for ten years from the close of the taxable year in which the qualified job was established.

(i) Except as provided in subsection (g) of this Code section, 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.

(j) Except under those circumstances described in subsection (k) of this Code section, the taxpayer shall, not more than 60 days after the close of the sixth taxable year following its withholding start date, file a report with the commissioner concerning the number of eligible full-time employee jobs created by such project; the wages of such jobs; the qualified investment property purchased or acquired by the taxpayer for the project; and any other information that the commissioner may reasonably require in order to determine whether the taxpayer has met the job creation requirement and either the payroll requirement or the qualified investment property requirement, as selected by the taxpayer, for such project. If the taxpayer has failed to meet any applicable job creation, payroll, or qualified investment property requirement, the taxpayer ~~will~~ shall forfeit the right to claim any credits provided by this Code section for such project. A

taxpayer that forfeits the right to claim such credits is liable for all past taxes imposed by this article and all past payments under Code Section 48-7-103 that were foregone by the state as a result of the credits, plus interest at the rate established by Code Section 48-2-40 computed from the date such taxes or payments would have been due if the credits had not been taken. No later than 90 days after notification from the commissioner that any applicable job creation, payroll, or qualified investment property requirement was not met, the taxpayer shall file amended income tax and withholding tax returns for all affected periods that recalculate those liabilities without regard to the forfeited credits and shall pay any additional amounts shown on such returns, with interest as provided ~~herein~~ by Code Section 48-2-40. On such amended returns the taxpayer may claim any credit to which it would have been entitled under this article but for having taken the credit provided by this Code section.

(k) If the recapture period applicable to a qualified project begins with or before the sixth taxable year following the taxpayer's withholding start date, or with or before the eighth taxable year following the taxpayer's withholding start date if the project falls within the \$600 million in qualified investment property category, or within the tenth taxable year following the taxpayer's withholding start date if the project falls within the \$800 million in qualified investment property category, the taxpayer shall, not later than 60 days after the close of the taxable year immediately preceding the recapture period, file a report with the commissioner concerning the number of eligible full-time employee jobs created by such project; the wages of such jobs; the qualified investment property purchased or acquired by the taxpayer for the project; and any other information that the commissioner may reasonably require in order to verify that the taxpayer met the job creation requirement and either the payroll requirement or the qualified investment property requirement in such preceding year.

(l) Not more than 60 days after the close of each taxable year within the recapture period, the taxpayer shall file a report, using such form and providing such information as the commissioner may reasonably require, concerning whether it met the job maintenance requirement and, if applicable, the payroll maintenance requirement for such year. For purposes of this subsection, whether such job maintenance requirement has been satisfied shall be determined by comparing the monthly average number of eligible full-time employees subject to Georgia income tax withholding for the taxable year with 1,800. For purposes of this subsection, whether such payroll maintenance requirement has been satisfied shall be determined by comparing the total annual Georgia W-2 reported payroll with respect to a qualified project for the taxable year with \$150 million. If the taxpayer has failed to meet the job maintenance requirement or payroll maintenance requirement, or both, for such year, the taxpayer ~~will~~ shall forfeit the right to 20 percent of all credits provided by this Code section for such project. A taxpayer that forfeits such right is liable for 20 percent of all past taxes imposed by this article and all past payments under Code Section 48-7-103 that were foregone by the state as a result of the credits provided by this Code section, plus interest at the rate established by Code Section 48-2-40 computed from the date such taxes or payments would have been due if the credits had not been taken. No later than

90 days after notification by the commissioner that the taxpayer has failed to meet the job maintenance requirement or payroll maintenance requirement, or both, for such year, the taxpayer shall file amended income tax and withholding tax returns for all affected periods that recalculate those liabilities without regard to the forfeited credits and shall pay any additional amounts shown on such returns, with interest as provided ~~herein~~ by Code Section 48-2-40.

(m) A taxpayer ~~who~~ that fails to meet the job maintenance requirement or payroll maintenance requirement, or both, for any taxable year within the recapture period because of force majeure may petition the commissioner for relief from such requirement. Such a petition must be made with and at the same time as the report required by subsection (l) of this Code section. If the commissioner determines that force majeure materially affected the taxpayer's ability to meet the job maintenance requirement or payroll maintenance requirement, or both, for such year, but that the portion of the year so affected was six months or less, for purposes of the job maintenance requirement the commissioner shall calculate the taxpayer's monthly average number of eligible full-time employees for purposes of subsection (l) of this Code section by disregarding the affected months and for purposes of the payroll maintenance requirement the commissioner shall annualize the total Georgia W-2 reported payroll with respect to a qualified project for the portion of the year not so affected. If the commissioner determines that the affected portion of the year was more than six months, the taxable year shall be disregarded in its entirety for purposes of the job maintenance requirement or payroll maintenance requirement, or both, and the recapture period applicable to the qualified project shall be extended for an additional year.

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

(o) Projects certified by the panel pursuant to paragraph (2) of subsection (b) of this Code section before January 1, 2009, shall be governed by this Code section as it was in effect for the taxable year the project was certified.

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

#### **SECTION 7.**

(a) This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall be applicable to all taxable years beginning on or after January 1, 2012.

(b) Tax, penalty, and interest liabilities and refund eligibility for prior taxable years shall not be affected by the passage of this Act and shall continue to be governed by the provisions of general law as it existed immediately prior to January 1, 2012.

(c) This Act shall not abate any prosecution, punishment, penalty, administrative proceedings or remedies, or civil action related to any violation of law committed prior to January 1, 2012.

### SECTION 8.

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

Representative Collins of the 27th moved that the House agree to the Senate substitute to HB 868.

On the motion, the roll call was ordered and the vote was as follows:

Y Abdul-Salaam	Y Davis	Y Heckstall	Y Mayo	Y Setzler
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McBrayer	Y Shaw
Y Allison	Y Dempsey	Y Henson	Y McCall	Y Sheldon
Y Amerson	Y Dickerson	Y Hightower	Y McKillip	Y Sims, B
Y Anderson	Y Dickey	Y Hill	Y Meadows	Sims, C
Y Ashe	Y Dickson	Y Holcomb	Y Mitchell	Y Smith, E
Y Atwood	Y Dobbs	Y Holmes	Y Morgan	Y Smith, K
Y Baker	Y Dollar	Y Holt	Morris	Y Smith, L
Y Battles	Y Drenner	Y Horne	Y Mosby	Y Smith, R
E Beasley-Teague	Y Dudgeon	Y Houston	Y Murphy	Smith, T
Bell	Y Dukes	Y Howard	Y Neal, J	Y Smyre
Y Benfield	Y Dunahoo	Hudson	E Neal, Y	Y Spencer
Y Benton	Y Dutton	Y Hugley	Y Nimmer	Y Stephens, M
Y Beverly	Y Ehrhart	Y Jackson	Y Nix	Y Stephens, R
Y Black	Y England	Y Jacobs	Y Oliver	Y Stephenson
Y Braddock	Y Epps, C	Y James	Y O'Neal	Y Talton
Y Brockway	Y Epps, J	Y Jasperse	Y Pak	Y Tankersley
Y Brooks	Y Evans	Y Jerguson	Y Parent	Y Taylor, D
Y Bruce	E Floyd	Y Johnson	Y Parrish	Y Taylor, R
Y Bryant	Y Fludd	Y Jones, J	Y Parsons	Y Taylor, T
Y Buckner	Y Frazier	Y Jones, S	Y Peake	Y Teasley
Y Burns	Y Fullerton	E Jordan	Y Powell, A	E Thomas
Y Byrd	Y Gardner	Y Kaiser	Y Powell, J	Y Waites
Y Carson	Y Geisinger	Kendrick	Y Pruett	Y Watson
Y Carter	Y Golick	Y Kidd	Y Purcell	Y Welch
Y Casas	Y Gordon	Y Kirby	Ramsey	Weldon
E Channell	Y Greene	Y Knight	Y Randall	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lane	Y Reece	Y Wilkinson
Y Clark, J	Y Hanner	Y Lindsey	Y Rice	Y Willard
Y Clark, V	Y Harbin	Y Long	Y Riley	Y Williams, A
Y Coleman	Y Harden, B	Y Maddox, B	Y Roberts	Y Williams, C
Y Collins	Y Harden, M	Y Maddox, G	Y Rogers, C	Y Williams, E
Y Cooke	Y Harrell	Y Manning	Y Rogers, T	Y Williams, R
Y Coomer	Y Hatchett	Y Marin	Y Rynders	Y Williamson
Y Cooper	Y Hatfield	Y Martin	Y Scott, M	Y Yates
Y Crawford	Y Heard	Y Maxwell	N Scott, S	Ralston, Speaker

On the motion, the ayes were 164, nays 1.

The motion prevailed.

Representative Scott of the 76th stated that she inadvertently voted "nay" on the preceding roll call. She wished to be recorded as voting "aye" thereon.

Representative Bell of the 58th stated that she had been called from the floor of the House during the preceding roll call. She wished to be recorded as voting "aye" thereon.

The following Resolution of the House, favorably reported by the Committee on Rules, was read and adopted:

HR 1678. By Representatives James of the 135th and Williams of the 165th:

A RESOLUTION commending Curtis Lee Atkinson and inviting him to be recognized by the House of Representatives; and for other purposes.

Under the general order of business, established by the Committee on Rules, the following Bill and Resolution of the House and Senate were taken up for consideration and read the third time:

SB 331. By Senators Shafer of the 48th, Harbison of the 15th, McKoon of the 29th, Goggans of the 7th and Golden of the 8th:

A BILL to be entitled an Act to amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to provide for the issuance of closing protection letters; to provide for definitions; to provide for premiums regarding such letters; to provide for certain reserves; to authorize the Commissioner of Insurance to promulgate rules and regulations with regard to such matters; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

On the passage of the Bill, the roll call was ordered and the vote was as follows:

Y Abdul-Salaam	Y Davis	Y Heckstall	Y Mayo	Y Setzler
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McBrayer	Y Shaw
Y Allison	Y Dempsey	Y Henson	Y McCall	Y Sheldon
Y Amerson	Y Dickerson	Y Hightower	Y McKillip	Y Sims, B
Y Anderson	Y Dickey	Y Hill	Y Meadows	Y Sims, C
Y Ashe	Y Dickson	Y Holcomb	Y Mitchell	Y Smith, E

Y Atwood	Y Dobbs	Y Holmes	Y Morgan	Y Smith, K
Y Baker	Y Dollar	Holt	Y Morris	Smith, L
Y Battles	Y Drenner	Y Horne	Y Mosby	Y Smith, R
E Beasley-Teague	Y Dudgeon	Y Houston	Y Murphy	Y Smith, T
Y Bell	Y Dukes	Y Howard	Y Neal, J	Y Smyre
Y Benfield	Y Dunahoo	Hudson	E Neal, Y	Y Spencer
Y Benton	Y Dutton	Y Hugley	Y Nimmer	Y Stephens, M
Y Beverly	Y Ehrhart	Y Jackson	Y Nix	Y Stephens, R
Black	Y England	Y Jacobs	Y Oliver	Y Stephenson
Y Braddock	Y Epps, C	Y James	Y O'Neal	Y Talton
Y Brockway	Y Epps, J	Y Jasperse	Y Pak	Y Tankersley
Y Brooks	Y Evans	Y Jerguson	Y Parent	Y Taylor, D
Y Bruce	Y Floyd	Y Johnson	Y Parrish	Y Taylor, R
Y Bryant	Fludd	Y Jones, J	Y Parsons	Taylor, T
Y Buckner	Y Frazier	Y Jones, S	Y Peake	Y Teasley
Y Burns	Y Fullerton	E Jordan	Y Powell, A	E Thomas
Y Byrd	Y Gardner	Y Kaiser	Y Powell, J	Y Waites
Y Carson	Y Geisinger	Y Kendrick	Pruett	Y Watson
Y Carter	Y Golick	Y Kidd	Y Purcell	Y Welch
Y Casas	Y Gordon	Y Kirby	Y Ramsey	Y Weldon
E Channell	Y Greene	Y Knight	Y Randall	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lane	Y Reece	Y Wilkinson
Y Clark, J	Y Hanner	Y Lindsey	Y Rice	Y Willard
Y Clark, V	Y Harbin	Y Long	Y Riley	Y Williams, A
Y Coleman	Y Harden, B	Y Maddox, B	Y Roberts	Y Williams, C
Collins	Y Harden, M	Y Maddox, G	Y Rogers, C	Y Williams, E
Y Cooke	Y Harrell	Y Manning	Y Rogers, T	Y Williams, R
Y Coomer	Y Hatchett	Y Marin	Y Rynders	Y Williamson
Y Cooper	Y Hatfield	Y Martin	Y Scott, M	Y Yates
Y Crawford	Y Heard	Y Maxwell	Y Scott, S	Ralston, Speaker

On the passage of the Bill, the ayes were 166, nays 0.

The Bill, having received the requisite constitutional majority, was passed.

Representatives Holt of the 112th and Pruett of the 144th stated that they had been called from the floor of the House during the preceding roll call. They wished to be recorded as voting "aye" thereon.

HR 1561. By Representatives Shaw of the 176th, McCall of the 30th, Roberts of the 154th, Anderson of the 117th, Nimmer of the 178th and others:

A RESOLUTION urging the United States Department of Labor to recall proposed policies; and for other purposes.

The following amendment was read:

Representative Taylor of the 55th moves to amend HR 1561 as follows:

Strike lines 13 - 16.

On the adoption of the amendment, the roll call was ordered and the vote was as follows:

Abdul-Salaam	N Davis	Y Heckstall	Y Mayo	E Setzler
Abrams	N Dawkins-Haigler	N Hembree	McBrayer	N Shaw
N Allison	N Dempsey	Y Henson	N McCall	N Sheldon
N Amerson	Y Dickerson	N Hightower	N McKillip	N Sims, B
N Anderson	N Dickey	N Hill	N Meadows	N Sims, C
Y Ashe	N Dickson	Y Holcomb	Y Mitchell	Y Smith, E
Atwood	Dobbs	N Holmes	Y Morgan	N Smith, K
N Baker	Dollar	N Holt	N Morris	N Smith, L
N Battles	Y Drenner	N Horne	Y Mosby	N Smith, R
E Beasley-Teague	Dudgeon	N Houston	N Murphy	N Smith, T
Bell	N Dukes	N Howard	N Neal, J	Y Smyre
Y Benfield	N Dunahoo	Hudson	E Neal, Y	N Spencer
N Benton	N Dutton	Y Hugley	N Nimmer	N Stephens, M
Beverly	N Ehrhart	Y Jackson	N Nix	N Stephens, R
N Black	N England	N Jacobs	Oliver	Y Stephenson
N Braddock	N Epps, C	James	N O'Neal	N Talton
N Brockway	N Epps, J	N Jasperse	Pak	N Tankersley
N Brooks	Evans	N Jerguson	Y Parent	Taylor, D
Bruce	Floyd	Johnson	N Parrish	Y Taylor, R
Bryant	Y Fludd	N Jones, J	N Parsons	E Taylor, T
Y Buckner	Frazier	Y Jones, S	N Peake	E Teasley
N Burns	Fullerton	E Jordan	N Powell, A	E Thomas
N Byrd	Y Gardner	Kaiser	N Powell, J	Y Waites
N Carson	N Geisinger	Y Kendrick	N Pruett	N Watson
N Carter	N Golick	N Kidd	N Purcell	N Welch
Casas	N Gordon	N Kirby	Ramsey	Weldon
E Channell	N Greene	N Knight	Y Randall	Wilkerson
N Cheokas	N Hamilton	N Lane	N Reece	N Wilkinson
N Clark, J	N Hanner	N Lindsey	N Rice	Willard
Clark, V	N Harbin	Y Long	E Riley	Williams, A
N Coleman	N Harden, B	N Maddox, B	N Roberts	N Williams, C
N Collins	N Harden, M	N Maddox, G	N Rogers, C	Williams, E
N Cooke	N Harrell	N Manning	N Rogers, T	N Williams, R
N Coomer	N Hatchett	Y Marin	N Rynders	N Williamson
N Cooper	N Hatfield	Martin	N Scott, M	N Yates
N Crawford	Y Heard	N Maxwell	Y Scott, S	Ralston, Speaker

On the adoption of the amendment, the ayes were 29, nays 110.

The amendment was lost.

The following amendment was read:

Representative Taylor of the 55th moves to amend HR 1561 as follows:

Strike lines 20 - 22.

On the adoption of the amendment, the roll call was ordered and the vote was as follows:

Abdul-Salaam	N Davis	Y Heckstall	Y Mayo	E Setzler
Y Abrams	Y Dawkins-Haigler	N Hembree	McBrayer	N Shaw
N Allison	N Dempsey	Y Henson	N McCall	N Sheldon
N Amerson	Y Dickerson	N Hightower	N McKillip	N Sims, B
N Anderson	N Dickey	N Hill	N Meadows	N Sims, C
Y Ashe	N Dickson	Y Holcomb	Y Mitchell	Y Smith, E
Atwood	Y Dobbs	N Holmes	Y Morgan	N Smith, K
N Baker	Dollar	N Holt	N Morris	N Smith, L
N Battles	Y Drenner	N Horne	Y Mosby	N Smith, R
E Beasley-Teague	Dudgeon	N Houston	N Murphy	N Smith, T
Bell	N Dukes	N Howard	N Neal, J	N Smyre
Y Benfield	N Dunahoo	Hudson	E Neal, Y	N Spencer
N Benton	N Dutton	N Hugley	N Nimmer	Stephens, M
Beverly	N Ehrhart	Y Jackson	N Nix	N Stephens, R
N Black	N England	N Jacobs	Y Oliver	Y Stephenson
N Braddock	N Epps, C	N James	N O'Neal	N Talton
N Brockway	N Epps, J	N Jasperse	Pak	N Tankersley
N Brooks	Y Evans	Jerguson	Y Parent	Taylor, D
Bruce	Y Floyd	Johnson	N Parrish	Y Taylor, R
Bryant	Y Fludd	Jones, J	N Parsons	E Taylor, T
N Buckner	Frazier	Y Jones, S	N Peake	E Teasley
N Burns	Fullerton	E Jordan	N Powell, A	E Thomas
N Byrd	Y Gardner	Kaiser	N Powell, J	Y Waites
N Carson	N Geisinger	Y Kendrick	N Pruett	N Watson
N Carter	N Golick	N Kidd	N Purcell	N Welch
Casas	N Gordon	N Kirby	Ramsey	Weldon
E Channell	N Greene	N Knight	Randall	Wilkerson
N Cheokas	N Hamilton	N Lane	N Reece	N Wilkinson
N Clark, J	N Hanner	N Lindsey	N Rice	Willard
Clark, V	N Harbin	Y Long	E Riley	Williams, A
N Coleman	N Harden, B	N Maddox, B	N Roberts	N Williams, C
N Collins	N Harden, M	N Maddox, G	N Rogers, C	Williams, E
N Cooke	N Harrell	N Manning	N Rogers, T	N Williams, R
N Coomer	N Hatchett	Y Marin	N Rynders	N Williamson
N Cooper	N Hatfield	Martin	N Scott, M	N Yates
N Crawford	Y Heard	N Maxwell	Y Scott, S	Ralston, Speaker

On the adoption of the amendment, the ayes were 31, nays 110.

The amendment was lost.

Representative Stephens of the 161st stated that he had been called from the floor of the House during the preceding roll call. He wished to be recorded as voting "nay" thereon.

The following amendment was read:

Representative Taylor of the 55th moves to amend HR 1561 as follows:

Strike lines 7 - 8 and replace with the following:

"According to the Centers for Disease Control's National Institute for Occupational Safety and Health, agriculture is the most dangerous work open to children in the United States, and".

On the adoption of the amendment, the roll call was ordered and the vote was as follows:

N Abdul-Salaam	N Davis	Y Heckstall	Y Mayo	E Setzler
Y Abrams	Dawkins-Haigler	N Hembree	McBrayer	N Shaw
N Allison	N Dempsey	Y Henson	N McCall	N Sheldon
N Amerson	Dickerson	N Hightower	N McKillip	N Sims, B
N Anderson	N Dickey	N Hill	N Meadows	N Sims, C
Y Ashe	N Dickson	Y Holcomb	Y Mitchell	Y Smith, E
Atwood	Y Dobbs	N Holmes	Y Morgan	N Smith, K
N Baker	Dollar	N Holt	N Morris	N Smith, L
N Battles	Y Drenner	N Horne	Mosby	N Smith, R
E Beasley-Teague	Dudgeon	N Houston	N Murphy	N Smith, T
Y Bell	N Dukes	N Howard	N Neal, J	Y Smyre
Y Benfield	N Dunahoo	Hudson	E Neal, Y	N Spencer
N Benton	N Dutton	Hugley	N Nimmer	N Stephens, M
Beverly	N Ehrhart	Y Jackson	N Nix	N Stephens, R
N Black	N England	N Jacobs	Y Oliver	Y Stephenson
N Braddock	N Epps, C	N James	N O'Neal	N Talton
N Brockway	N Epps, J	N Jasperse	Pak	N Tankersley
N Brooks	N Evans	N Jerguson	N Parent	Taylor, D
Bruce	Y Floyd	Johnson	N Parrish	Y Taylor, R
Bryant	Y Fludd	Jones, J	N Parsons	E Taylor, T
N Buckner	Frazier	Y Jones, S	N Peake	E Teasley
N Burns	Fullerton	E Jordan	N Powell, A	E Thomas
N Byrd	Y Gardner	Kaiser	N Powell, J	Y Waites
N Carson	N Geisinger	Y Kendrick	N Pruett	N Watson
N Carter	N Golick	N Kidd	N Purcell	N Welch
Casas	N Gordon	N Kirby	Ramsey	Weldon
E Channell	N Greene	N Knight	N Randall	Wilkerson
N Cheokas	N Hamilton	N Lane	Reece	N Wilkinson
N Clark, J	N Hanner	N Lindsey	N Rice	N Willard
Clark, V	N Harbin	Y Long	E Riley	Williams, A
N Coleman	N Harden, B	N Maddox, B	N Roberts	N Williams, C
N Collins	N Harden, M	N Maddox, G	Y Rogers, C	Williams, E
N Cooke	N Harrell	N Manning	N Rogers, T	N Williams, R
N Coomer	N Hatchett	Y Marin	N Rynders	N Williamson
N Cooper	N Hatfield	Martin	N Scott, M	N Yates
N Crawford	Y Heard	N Maxwell	Y Scott, S	Ralston, Speaker

On the adoption of the amendment, the ayes were 29, nays 113.

The amendment was lost.

The report of the Committee, which was favorable to the adoption of the Resolution, was agreed to.

On the adoption of the Resolution, the roll call was ordered and the vote was as follows:

N Abdul-Salaam	Y Davis	N Heckstall	N Mayo	E Setzler
N Abrams	Y Dawkins-Haigler	Y Hembree	McBrayer	Y Shaw
Y Allison	Y Dempsey	N Henson	Y McCall	Y Sheldon
Y Amerson	N Dickerson	Y Hightower	Y McKillip	Y Sims, B
Y Anderson	Y Dickey	Y Hill	Y Meadows	Y Sims, C
N Ashe	Y Dickson	Y Holcomb	N Mitchell	N Smith, E
Atwood	Y Dobbs	Y Holmes	N Morgan	Y Smith, K
Y Baker	Dollar	Y Holt	Y Morris	Y Smith, L
Y Battles	Y Drenner	Y Horne	N Mosby	Y Smith, R
E Beasley-Teague	Dudgeon	Y Houston	Y Murphy	Y Smith, T
N Bell	Y Dukes	Y Howard	Y Neal, J	Y Smyre
N Benfield	Dunahoo	Y Hudson	E Neal, Y	Y Spencer
Y Benton	Y Dutton	Y Hugley	Y Nimmer	Y Stephens, M
Beverly	Y Ehrhart	Y Jackson	Y Nix	Y Stephens, R
Y Black	Y England	Y Jacobs	N Oliver	N Stephenson
Braddock	Y Epps, C	Y James	Y O'Neal	Y Talton
Y Brockway	Epps, J	Y Jasperse	Pak	Y Tankersley
Y Brooks	N Evans	Y Jerguson	N Parent	Y Taylor, D
N Bruce	Y Floyd	Johnson	Y Parrish	N Taylor, R
Y Bryant	N Fludd	Y Jones, J	Y Parsons	E Taylor, T
Y Buckner	Y Frazier	N Jones, S	Y Peake	E Teasley
Y Burns	Y Fullerton	E Jordan	Y Powell, A	E Thomas
Y Byrd	N Gardner	Y Kaiser	Y Powell, J	N Waites
Y Carson	Y Geisinger	N Kendrick	Y Pruett	Y Watson
Y Carter	Y Golick	Y Kidd	Y Purcell	Y Welch
Casas	Y Gordon	Y Kirby	Ramsey	Weldon
E Channell	Y Greene	Y Knight	N Randall	Wilkerson
Y Cheokas	Y Hamilton	Y Lane	Y Reece	Y Wilkinson
Y Clark, J	Y Hanner	Y Lindsey	Y Rice	Y Willard
Y Clark, V	Y Harbin	N Long	E Riley	Y Williams, A
Y Coleman	Y Harden, B	Y Maddox, B	Y Roberts	Y Williams, C
Y Collins	Y Harden, M	Y Maddox, G	Y Rogers, C	Y Williams, E
Y Cooke	Y Harrell	Y Manning	Y Rogers, T	Y Williams, R
Y Coomer	Y Hatchett	N Marin	Y Rynders	Y Williamson
Y Cooper	Y Hatfield	Martin	N Scott, M	Y Yates
Y Crawford	N Heard	Y Maxwell	N Scott, S	Ralston, Speaker

On the adoption of the Resolution, the ayes were 125, nays 30.

The Resolution, having received the requisite constitutional majority, was adopted.

Representative Weldon of the 3rd stated that he had been called from the floor of the House during the preceding roll call. He wished to be recorded as voting "aye" thereon.

Due to a mechanical malfunction, the vote of Representative Epps of the 140th was not recorded on the preceding roll call. He wished to be recorded as voting "aye" thereon.

Representative Channell of the 116th District and Senator Heath of the 31st District, Co-Chairmen of the Special Joint Committee on Georgia Revenue Structure, submitted the following report:

Mr. Speaker:

Your Special Joint Committee on Georgia Revenue Structure has had under consideration the following Bill of the House and has instructed me to report the same back to the House with the following recommendation:

HB 386      Do Pass, by Substitute

Respectfully submitted,  
/s/ Representative Channell of the 116th  
/s/ Senator Heath of the 31st  
Co-Chairmen

The Speaker announced the House in recess until 2:00 o'clock, this afternoon.

**AFTERNOON SESSION**

The Speaker called the House to order.

The following Resolutions of the House were read and referred to the Committee on Rules:

HR 1875. By Representatives Wilkerson of the 33rd, Ehrhart of the 36th, Johnson of the 37th, Evans of the 40th, Morgan of the 39th and others:

A RESOLUTION commending the McEachern High School girls basketball team on their Class AAAAA State Championship and inviting them to be recognized by the House of Representatives; and for other purposes.

HR 1876. By Representatives Howard of the 121st, Murphy of the 120th, Smith of the 122nd, Frazier of the 123rd and Sims of the 119th:

A RESOLUTION commending Sheriff Ronald Strength on the occasion of his retirement and inviting him to be recognized by the House of Representatives; and for other purposes.

The following Resolutions of the House were read and adopted:

HR 1877. By Representatives Williams of the 113th, McKillip of the 115th, Heard of the 114th, Talton of the 145th, Kaiser of the 59th and others:

A RESOLUTION recognizing and commending Senior Police Officer Tony Howard; and for other purposes.

HR 1878. By Representatives Williams of the 113th, Heard of the 114th, McKillip of the 115th, Talton of the 145th, Kaiser of the 59th and others:

A RESOLUTION honoring the life and memory of Senior Police Officer Elmer B. "Buddy" Christian III; and for other purposes.

HR 1879. By Representatives Taylor of the 173rd, Carter of the 175th, McBrayer of the 153rd, Black of the 174th, Powell of the 171st and others:

A RESOLUTION recognizing and commending Youth Leadership Thomasville-Thomas County on the occasion of its 15th anniversary; and for other purposes.

HR 1880. By Representatives Taylor of the 173rd, Carter of the 175th, Black of the 174th, McBrayer of the 153rd, Holmes of the 125th and others:

A RESOLUTION recognizing and commending Dr. Sandra B. Reed; and for other purposes.

HR 1881. By Representative Ralston of the 7th:

A RESOLUTION honoring the life and memory of Ms. Ruth Walker; and for other purposes.

HR 1882. By Representatives Bell of the 58th, Manning of the 32nd, Braddock of the 19th, Drenner of the 86th, Morgan of the 39th and others:

A RESOLUTION recognizing March 22, 2012, as CHRIS Kids Day at the Georgia state capitol; and for other purposes.

HR 1883. By Representatives Purcell of the 159th, Ralston of the 7th, Meadows of the 5th, Greene of the 149th, England of the 108th and others:

A RESOLUTION recognizing and commending the Georgia Department of Public Safety on the occasion of its 75th anniversary; and for other purposes.

HR 1884. By Representatives Purcell of the 159th and Burns of the 157th:

A RESOLUTION recognizing and commending Georgia State Patrol Post 42 and the Department of Driver Services on the occasion of its tenth anniversary; and for other purposes.

HR 1885. By Representative Waites of the 60th:

A RESOLUTION recognizing and commending Mr. Henry David Dodson, Jr.; and for other purposes.

HR 1886. By Representative Waites of the 60th:

A RESOLUTION recognizing and commending the Samuel Chapter #9 of the Order of the Eastern Star; and for other purposes.

HR 1887. By Representative Hudson of the 124th:

A RESOLUTION recognizing and commending Bruce Morgan on the occasion of his retirement; and for other purposes.

HR 1888. By Representatives Dobbs of the 53rd, Lindsey of the 54th, Ashe of the 56th, Cheokas of the 134th, Gardner of the 57th and others:

A RESOLUTION recognizing and commending Jordan Flowers; and for other purposes.

HR 1889. By Representatives Dobbs of the 53rd, Lindsey of the 54th, Ashe of the 56th, Cheokas of the 134th, Gardner of the 57th and others:

A RESOLUTION recognizing and commending Sahara Fletcher; and for other purposes.

HR 1890. By Representatives Dobbs of the 53rd, Lindsey of the 54th, Ashe of the 56th, Cheokas of the 134th, Gardner of the 57th and others:

A RESOLUTION recognizing and commending Frank Love; and for other purposes.

HR 1891. By Representatives Dobbs of the 53rd, Lindsey of the 54th, Ashe of the 56th, Cheokas of the 134th, Gardner of the 57th and others:

A RESOLUTION recognizing and commending Maddie Downs; and for other purposes.

HR 1892. By Representatives Dobbs of the 53rd, Lindsey of the 54th, Ashe of the 56th, Cheokas of the 134th, Gardner of the 57th and others:

A RESOLUTION recognizing and commending Erika Redding; and for other purposes.

HR 1893. By Representatives Dobbs of the 53rd, Lindsey of the 54th, Ashe of the 56th, Cheokas of the 134th, Gardner of the 57th and others:

A RESOLUTION recognizing and commending Katie Christy; and for other purposes.

HR 1894. By Representatives Dobbs of the 53rd, Lindsey of the 54th, Ashe of the 56th, Cheokas of the 134th, Gardner of the 57th and others:

A RESOLUTION recognizing and commending Nicole Stafford; and for other purposes.

HR 1895. By Representatives Dobbs of the 53rd, Lindsey of the 54th, Ashe of the 56th, Cheokas of the 134th, Gardner of the 57th and others:

A RESOLUTION recognizing and commending Rachel Astles; and for other purposes.

HR 1896. By Representatives Dobbs of the 53rd, Lindsey of the 54th, Ashe of the 56th, Cheokas of the 134th, Gardner of the 57th and others:

A RESOLUTION recognizing and commending Julian Houk; and for other purposes.

HR 1897. By Representatives Dempsey of the 13th, Watson of the 163rd and Harden of the 147th:

A RESOLUTION recognizing August 26 through September 1, 2012, as Anaphylaxis Awareness Week at the capitol; and for other purposes.

HR 1898. By Representatives Morgan of the 39th, Johnson of the 37th, Gardner of the 57th, Coleman of the 97th, Evans of the 40th and others:

A RESOLUTION honoring the life and memory of Jonathan Samuel Warren Brooks; and for other purposes.

HR 1899. By Representatives Brooks of the 63rd and Bruce of the 64th:

A RESOLUTION recognizing and commending the Joshua Project Worldwide; and for other purposes.

HR 1900. By Representatives Wilkerson of the 33rd, Johnson of the 37th, Evans of the 40th, Morgan of the 39th, Setzler of the 35th and others:

A RESOLUTION recognizing and commending Christian Aid Mission Partnership; and for other purposes.

HR 1901. By Representatives Burns of the 157th, Tankersley of the 158th and Parrish of the 156th:

A RESOLUTION recognizing and commending Coach Rusty Cram; and for other purposes.

HR 1902. By Representative Epps of the 140th:

A RESOLUTION commending Krystalyn May, Wilkinson County Elementary School's 2012 Teacher of the Year; and for other purposes.

HR 1903. By Representative Epps of the 140th:

A RESOLUTION recognizing and commending Ms. Ashley Lamar, Wilkinson County Middle School's 2012 Teacher of the Year; and for other purposes.

HR 1904. By Representative Epps of the 140th:

A RESOLUTION recognizing and commending Ms. Amy Pritchard, Wells Elementary School's 2012 Teacher of the Year; and for other purposes.

HR 1905. By Representative Epps of the 140th:

A RESOLUTION recognizing and commending Ms. Valerie Chatman, Wilkinson County Primary School's 2012 Special Education Teacher of the Year; and for other purposes.

HR 1906. By Representative Epps of the 140th:

A RESOLUTION recognizing and commending Ms. Schlonda Spikes, Wilkinson County Elementary School's 2012 Special Education Teacher of the Year; and for other purposes.

HR 1907. By Representative Epps of the 140th:

A RESOLUTION recognizing and commending Mr. Charm Pace, Clifton Ridge Middle School's 2012 Teacher of the Year; and for other purposes.

HR 1908. By Representatives Johnson of the 37th, Wilkerson of the 33rd, Evans of the 40th, Parsons of the 42nd, Golick of the 34th and others:

A RESOLUTION honoring the life and memory of Ms. Vonceil Williams; and for other purposes.

HR 1909. By Representatives Ashe of the 56th, Brooks of the 63rd and Taylor of the 55th:

A RESOLUTION recognizing and commending Eta Phi Beta Sorority, Inc., on the occasion of its 70th anniversary; and for other purposes.

HR 1910. By Representatives Brockway of the 101st, Sheldon of the 105th, Clark of the 104th, Coleman of the 97th and Clark of the 98th:

A RESOLUTION congratulating the 2011 Collins Hill High School softball team on winning the GHSA Class AAAAA State Championship; and for other purposes.

HR 1911. By Representatives Brockway of the 101st, Sheldon of the 105th, Clark of the 104th, Coleman of the 97th and Clark of the 98th:

A RESOLUTION congratulating the Collins Hill High School wrestling team on winning the 2012 Team Traditional Class AAAAA State Championship; and for other purposes.

HR 1912. By Representatives Kirby of the 107th and Williamson of the 111th:

A RESOLUTION recognizing and commending Ryan Reising; and for other purposes.

HR 1913. By Representatives Lindsey of the 54th, Wilkinson of the 52nd and Golick of the 34th:

A RESOLUTION recognizing and commending John Thomas Fowler, Jr.; and for other purposes.

HR 1914. By Representatives Brockway of the 101st, Sheldon of the 105th, Clark of the 104th, Coleman of the 97th and Clark of the 98th:

A RESOLUTION recognizing and commending Mountain View High School; and for other purposes.

HR 1915. By Representatives Burns of the 157th and Stephens of the 164th:

A RESOLUTION recognizing and commending the Sylvania Information Center upon the occasion of its 50th anniversary; and for other purposes.

HR 1916. By Representative Pruett of the 144th:

A RESOLUTION recognizing and commending Mrs. Nannie Mullis Daniels on the grand occasion of her 102nd birthday; and for other purposes.

HR 1917. By Representative Purcell of the 159th:

A RESOLUTION recognizing and commending Mr. Gary Norton; and for other purposes.

HR 1918. By Representative Purcell of the 159th:

A RESOLUTION recognizing and commending the Richmond Baptist Church on the occasion of its 115th anniversary; and for other purposes.

HR 1919. By Representatives Purcell of the 159th, Roberts of the 154th, Powell of the 29th, Burns of the 157th, Bell of the 58th and others:

A RESOLUTION recognizing the month of May, 2012, as Bikers Month at the capitol; and for other purposes.

HR 1920. By Representative Dempsey of the 13th:

A RESOLUTION commending Gina Yu, the Floyd County School System's and Armuchee High School's 2012 STAR Student; and for other purposes.

HR 1921. By Representative Dempsey of the 13th:

A RESOLUTION commending Mrs. Sandra Popham, Armuchee High School's 2012 STAR Teacher; and for other purposes.

HR 1922. By Representative Dempsey of the 13th:

A RESOLUTION commending Jesse Baker, Darlington School's 2012 STAR Student; and for other purposes.

HR 1923. By Representative Dempsey of the 13th:

A RESOLUTION commending Mr. Kevin Hunt, Darlington School's 2012 STAR Teacher; and for other purposes.

HR 1924. By Representatives Dempsey of the 13th, Reece of the 11th and Coomer of the 14th:

A RESOLUTION commending Alexandria Cantrell, Model High School's 2012 STAR Student; and for other purposes.

HR 1925. By Representatives Dempsey of the 13th, Reece of the 11th and Coomer of the 14th:

A RESOLUTION commending Mrs. Sheila Wood, Model High School's 2012 STAR Teacher; and for other purposes.

HR 1926. By Representative Dempsey of the 13th:

A RESOLUTION commending Austin Beacham, Rome City School System's and Rome High School's 2012 STAR Student; and for other purposes.

HR 1927. By Representative Dempsey of the 13th:

A RESOLUTION commending Mr. Andy Blackburn, Rome High School's 2012 STAR Teacher; and for other purposes.

HR 1928. By Representatives Dempsey of the 13th and Coomer of the 14th:

A RESOLUTION commending Wendy Bristow, Unity Christian School's 2012 STAR Student; and for other purposes.

HR 1929. By Representatives Dempsey of the 13th and Coomer of the 14th:

A RESOLUTION commending Mrs. Susan Payne, Unity Christian School's 2012 STAR Teacher; and for other purposes.

HR 1930. By Representative Wilkinson of the 52nd:

A RESOLUTION honoring the life and memory of Mr. Dale B. Harris; and for other purposes.

HR 1931. By Representatives Buckner of the 130th, Smyre of the 132nd, Smith of the 131st, Hugley of the 133rd and Smith of the 129th:

A RESOLUTION recognizing and commending Sydnie Pike for being selected as the 2012 Children's Miracle Network Champion Across America Ambassador; and for other purposes.

HR 1932. By Representative Hudson of the 124th:

A RESOLUTION recognizing and commending Culverton United Methodist Church on the occasion of its 100th anniversary; and for other purposes.

HR 1933. By Representative O`Neal of the 146th:

A RESOLUTION commending Lindsey Napier; and for other purposes.

HR 1934. By Representatives Reece of the 11th, Clark of the 104th, Coleman of the 97th and Casas of the 103rd:

A RESOLUTION recognizing and commending Ms. Laura Hayes for outstanding contributions to education in the State of Georgia; and for other purposes.

HR 1935. By Representatives Reece of the 11th, Dempsey of the 13th and Coomer of the 14th:

A RESOLUTION recognizing and commending Ms. Alana Ellenburg for outstanding contributions to education in the State of Georgia; and for other purposes.

HR 1936. By Representatives Reece of the 11th, Clark of the 104th, Coleman of the 97th and Casas of the 103rd:

A RESOLUTION commending Stephanie Nichole Dykes, Chattooga High School's 2012 STAR Student; and for other purposes.

HR 1937. By Representatives Reece of the 11th, Clark of the 104th, Coleman of the 97th and Casas of the 103rd:

A RESOLUTION commending Ms. Sarah Windincamp, Chattooga High School's 2012 STAR Teacher; and for other purposes.

HR 1938. By Representatives Reece of the 11th, Dempsey of the 13th and Coomer of the 14th:

A RESOLUTION recognizing and commending the Coosa High School cheerleading squad on their exceptional performance in the GHSA Class AA 2011 State Cheerleading Championship; and for other purposes.

HR 1939. By Representatives Reece of the 11th, Dempsey of the 13th and Coomer of the 14th:

A RESOLUTION commending William Moraga, Coosa High School's 2012 STAR Student; and for other purposes.

HR 1940. By Representatives Reece of the 11th, Dempsey of the 13th and Coomer of the 14th:

A RESOLUTION commending Ms. Barbara Westbrook, Coosa High School's 2012 STAR Teacher; and for other purposes.

HR 1941. By Representatives Reece of the 11th, Dempsey of the 13th and Coomer of the 14th:

A RESOLUTION commending Andrew Owen, Pepperell High School's 2012 STAR Student; and for other purposes.

HR 1942. By Representatives Reece of the 11th, Dempsey of the 13th and Coomer of the 14th:

A RESOLUTION commending Mr. Robert Steelnack, Pepperell High School's 2012 STAR Teacher; and for other purposes.

HR 1943. By Representatives Reece of the 11th, Clark of the 104th, Coleman of the 97th and Casas of the 103rd:

A RESOLUTION commending Ms. Susan McCain, Trion High School's 2012 STAR Teacher; and for other purposes.

HR 1944. By Representatives Reece of the 11th, Clark of the 104th, Coleman of the 97th and Casas of the 103rd:

A RESOLUTION commending Stewart Van Johnson, Trion High School's 2012 STAR Student; and for other purposes.

HR 1945. By Representatives Tankersley of the 158th, Parrish of the 156th and Burns of the 157th:

A RESOLUTION recognizing and commending Staff Sergeant Scott Millican; and for other purposes.

HR 1946. By Representative Harden of the 28th:

A RESOLUTION recognizing and commending the Stephens County High School skills team; and for other purposes.

HR 1947. By Representative Harden of the 28th:

A RESOLUTION recognizing and commending the Stephens County High School girls softball team; and for other purposes.

The following report of the Committee on Rules was read and adopted:

HOUSE SUPPLEMENTAL RULES CALENDAR  
TUESDAY, MARCH 20, 2012

Mr. Speaker and Members of the House:

The Committee on Rules has fixed the calendar for this 35th Legislative Day as enumerated below:

DEBATE CALENDAR

**Pursuant to House Rule 33.3, debate shall be limited to no longer than 3 hours on HB 386.**

**Time to be allocated at the discretion of the Chair.**

HB 386 Revenue and taxation; revenue structure; comprehensive revision (Substitute) (SJCGRS-Channell-116th)

**Open Rule**

None

**Modified Open Rule**

None

**Modified Structured Rule**

SB 338 "Georgia Volunteers in Dentistry and Dental Hygiene Act"; provide for special licenses for dentists and dental hygienists licensed in other jurisdictions (H&HS-Cooper-41st) Goggans-7th

SB 361 Healthcare Facilities; expand provisions; nationally recognized health care accreditation body (H&HS- Cooper-41st) Miller-49th

SB 366 Juvenile Justice Dept.; revise restrictions; possessions of contraband at juvenile detention centers (Substitute) (JudyNC-Purcell-159th) Grant-25th

SB 372 "Disposition of Veterans' Cremated Remains Act"; provide for a determination; deceased veteran; certain notifications (Substitute) (Judy-Smith-131st) Unterman-45th

SB 416 Insurance Dept; authorize to develop exchange standards regarding electronic prior authorization drug requests with health care providers (Substitute) (Ins-Watson-163rd) Carter-1st

### Structured Rule

None

Bills and Resolutions on this calendar may be called in any order the Speaker desires.

Respectfully submitted,  
/s/ Meadows of the 5th  
Chairman

Under the general order of business, established by the Committee on Rules, the following Bills of the Senate were taken up for consideration and read the third time:

SB 338. By Senators Goggans of the 7th, Jackson of the 2nd and Unterman of the 45th:

A BILL to be entitled an Act to amend Code Section 43-11-52 of the Official Code of Georgia Annotated, relating to the "Georgia Volunteers in Dentistry and Dental Hygiene Act," so as to provide for special licenses for dentists and dental hygienists licensed in other jurisdictions; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

On the passage of the Bill, the roll call was ordered and the vote was as follows:

Y Abdul-Salaam	Y Davis	E Heckstall	Y Mayo	Y Setzler
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McBrayer	Y Shaw
Y Allison	Dempsey	Y Henson	Y McCall	Y Sheldon
Y Amerson	Y Dickerson	Y Hightower	Y McKillip	Y Sims, B
Y Anderson	Y Dickey	Y Hill	Y Meadows	Y Sims, C
Y Ashe	Y Dickson	Y Holcomb	Y Mitchell	Y Smith, E
Y Atwood	Y Dobbs	Y Holmes	Y Morgan	Y Smith, K
Y Baker	Y Dollar	Y Holt	Morris	Y Smith, L
Y Battles	Y Drenner	Y Horne	Y Mosby	Y Smith, R
E Beasley-Teague	Y Dudgeon	Y Houston	Y Murphy	Y Smith, T
Y Bell	Y Dukes	E Howard	Y Neal, J	Y Smyre
Y Benfield	Y Dunahoo	Y Hudson	E Neal, Y	Y Spencer
Y Benton	Y Dutton	Hugley	Y Nimmer	Y Stephens, M
Y Beverly	Y Ehrhart	Y Jackson	Y Nix	Y Stephens, R

Y Black	Y England	Jacobs	Y Oliver	Y Stephenson
Y Braddock	Y Epps, C	Y James	Y O'Neal	Y Talton
Y Brockway	Y Epps, J	Y Jasperse	Y Pak	Y Tankersley
Y Brooks	Y Evans	Y Jerguson	Y Parent	Y Taylor, D
Y Bruce	Y Floyd	Y Johnson	Y Parrish	Y Taylor, R
Y Bryant	Y Fludd	Y Jones, J	Parsons	Y Taylor, T
Y Buckner	Y Frazier	Y Jones, S	Y Peake	Teasley
Y Burns	Y Fullerton	E Jordan	Y Powell, A	E Thomas
Y Byrd	Y Gardner	Y Kaiser	Y Powell, J	Y Waites
Y Carson	Geisinger	Y Kendrick	Y Pruett	Y Watson
Y Carter	Y Golick	Y Kidd	Y Purcell	Y Welch
Y Casas	Y Gordon	Y Kirby	Y Ramsey	Weldon
Y Channell	Y Greene	Y Knight	Y Randall	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lane	Y Reece	Y Wilkinson
Y Clark, J	Y Hanner	Y Lindsey	Y Rice	Y Willard
Y Clark, V	Y Harbin	Y Long	E Riley	Y Williams, A
Y Coleman	Y Harden, B	Y Maddox, B	Y Roberts	Y Williams, C
Y Collins	Y Harden, M	Y Maddox, G	Y Rogers, C	E Williams, E
Y Cooke	Y Harrell	Y Manning	Y Rogers, T	Y Williams, R
Y Coomer	Y Hatchett	Y Marin	Y Rynders	Y Williamson
Y Cooper	Y Hatfield	Y Martin	Y Scott, M	Y Yates
Crawford	Y Heard	Y Maxwell	Y Scott, S	Ralston, Speaker

On the passage of the Bill, the ayes were 162, nays 0.

The Bill, having received the requisite constitutional majority, was passed.

Representative Dempsey of the 13th stated that she had been called from the floor of the House during the preceding roll call. She wished to be recorded as voting "aye" thereon.

SB 372. By Senators Unterman of the 45th, Harbison of the 15th, Jackson of the 2nd, Hill of the 4th and Jones of the 10th:

A BILL to be entitled an Act to amend Part 1 of Article 1 of Chapter 18 of Title 43 of the Official Code of Georgia Annotated, relating to general provisions relative to funeral directors and establishments, embalmers, and crematories, so as to provide for a determination as to whether a dead body that has been submitted to a funeral director in charge of a crematory is that of a deceased veteran; to provide a short title; to provide for certain notifications; to allow access to certain veterans' organizations under certain circumstances to information about a deceased; to allow certain veterans' organizations under certain circumstances to make arrangements for the disposition of the cremated remains of a deceased veteran; to provide for immunity; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED  
AN ACT

To amend Part 1 of Article 1 of Chapter 18 of Title 43 of the Official Code of Georgia Annotated, relating to general provisions relative to funeral directors and establishments, embalmers, and crematories, so as to provide for a determination as to whether a dead body that has been submitted to a funeral director is that of a deceased veteran; to provide a short title; to provide for certain notifications; to allow access to certain veterans' organizations under certain circumstances to information about a deceased; to allow certain veterans' organizations under certain circumstances to make arrangements for the disposition of the cremated remains of a deceased veteran; to provide for immunity; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

This Act shall be known as and may be cited as the "Disposition of Veterans' Cremated Remains Act."

**SECTION 2.**

Part 1 of Article 1 of Chapter 18 of Title 43 of the Official Code of Georgia Annotated, relating to general provisions relative to funeral directors and establishments, embalmers, and crematories, is amended by adding a new Code section to read as follows:

"43-18-9.

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

(1) 'Veteran' means a resident of this state who qualifies as a veteran under the rules of the United States Department of Veterans Affairs and who was discharged under conditions other than dishonorable.

(2) 'Veterans' organization' means the Department of Veterans Service, the National Cemetery Administration's National Cemetery Scheduling Office, or any association or other entity organized for the benefit of veterans that has been recognized or chartered by the United States Congress, such as the American Legion, the Legion of Honor, the Patriot Guard, the Missing in America Project, and the Vietnam Veterans of America.

(b) The funeral director shall make a reasonable effort to determine whether any dead body submitted for final disposition by cremation is that of a deceased veteran.

(c) The funeral director shall, at the time the cremation authorization form is signed:

(1) Inquire as to whether the legally authorized person has information or belief as to whether the deceased is a veteran; and

(2) Notify the legally authorized person of the responsibilities of the funeral director under this Code section.

(d) If the funeral director is unable to determine with certainty whether the deceased was a veteran through an inquiry with the legally authorized agent, then any veterans' organization shall be allowed access to all information available from the United States Department of Veterans Affairs regarding the deceased in the possession of the funeral director in charge of the crematory so that any veterans' organization may attempt to determine whether the deceased is a veteran. If any veterans' organization that is allowed access to information pursuant to this Code section discovers that the deceased is a veteran, the veterans' organization shall notify the funeral director.

(e)(1) If the funeral director determines that the deceased is a veteran from information provided by the legally authorized person, any veterans' organization, or otherwise, then such funeral director shall immediately notify the legally authorized person of such finding and shall advise that the deceased person may be eligible to be interred at an appropriate veterans' cemetery.

(2) If the funeral director determines that the deceased is a veteran from information provided by the legally authorized person, any veterans' organization, or otherwise, and the cremated remains are not claimed by a legally authorized person, then the funeral director shall hold any such cremated remains for at least 60 days. After 60 days, the funeral director shall send written notice to the legally authorized person who signed the cremation authorization form requesting disposition instructions. If the funeral director does not receive a written response from the legally authorized person within 30 days of sending a written notice, then the funeral director shall contact a veterans' organization so that arrangements for the disposition of the cremated remains of the veteran may be made in a state or national veterans' cemetery.

(f) Nothing in this Code section shall delay the authorized cremation of a deceased's remains.

(g)(1) A funeral director complying with this Code section shall be immune from any criminal or civil liability regarding:

(A) The determination of a deceased's status as a veteran;

(B) The release of information relating to the determination of a deceased's status as a veteran;

(C) The availability of interment or inurnment for a deceased veteran; or

(D) The release of cremated remains to a veterans' cemetery.

(2) A funeral director shall be immune from civil liability for any act or omission under this Code section except for willful or wanton misconduct.

(h) A veterans' organization shall be immune from civil liability for any act or omission related to the disposition of cremated remains under this Code section except for willful or wanton misconduct."

### **SECTION 3.**

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

**SECTION 4.**

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

Y Abdul-Salaam	Y Davis	E Heckstall	Y Mayo	Y Setzler
Y Abrams	Dawkins-Haigler	Y Hembree	Y McBrayer	Y Shaw
Y Allison	Y Dempsey	Y Henson	Y McCall	Y Sheldon
Y Amerson	Y Dickerson	Y Hightower	Y McKillip	Y Sims, B
Y Anderson	Y Dickey	Y Hill	Y Meadows	Y Sims, C
Y Ashe	Y Dickson	Y Holcomb	Y Mitchell	Y Smith, E
Y Atwood	Y Dobbs	Y Holmes	Y Morgan	Y Smith, K
Y Baker	Y Dollar	Y Holt	Morris	Y Smith, L
Y Battles	Y Drenner	Y Horne	Y Mosby	Y Smith, R
E Beasley-Teague	Y Dudgeon	Y Houston	Y Murphy	Y Smith, T
Y Bell	Y Dukes	E Howard	Y Neal, J	Y Smyre
Y Benfield	Y Dunahoo	Y Hudson	E Neal, Y	Y Spencer
Y Benton	Y Dutton	Y Hugley	Y Nimmer	Y Stephens, M
Y Beverly	Ehrhart	Y Jackson	Y Nix	Y Stephens, R
Y Black	Y England	E Jacobs	Y Oliver	Y Stephenson
Y Braddock	Y Epps, C	Y James	Y O'Neal	Y Talton
Y Brockway	Y Epps, J	Y Jasperse	Y Pak	Y Tankersley
Y Brooks	Y Evans	Y Jerguson	Y Parent	Y Taylor, D
Y Bruce	Y Floyd	Y Johnson	Y Parrish	Y Taylor, R
Y Bryant	Y Fludd	Y Jones, J	Parsons	E Taylor, T
Y Buckner	Y Frazier	Y Jones, S	Y Peake	Y Teasley
Y Burns	Y Fullerton	E Jordan	Y Powell, A	E Thomas
Y Byrd	Y Gardner	Y Kaiser	Y Powell, J	Y Waites
Y Carson	Y Geisinger	Y Kendrick	Y Pruett	Y Watson
Y Carter	Y Golick	Y Kidd	Y Purcell	Y Welch
Y Casas	Y Gordon	Y Kirby	Y Ramsey	Y Weldon
Y Channell	Y Greene	Y Knight	Y Randall	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lane	Y Reece	Y Wilkinson
Y Clark, J	Y Hanner	Y Lindsey	Y Rice	Y Willard
Y Clark, V	Y Harbin	Y Long	E Riley	Y Williams, A
Y Coleman	Y Harden, B	Y Maddox, B	Y Roberts	Y Williams, C
Y Collins	Y Harden, M	Y Maddox, G	Y Rogers, C	E Williams, E
Y Cooke	Y Harrell	Y Manning	Y Rogers, T	Y Williams, R
Y Coomer	Y Hatchett	Y Marin	Y Rynders	Y Williamson
Y Cooper	Y Hatfield	Y Martin	Y Scott, M	Y Yates
Crawford	Y Heard	Y Maxwell	Y Scott, S	Ralston, Speaker

On the passage of the Bill, by substitute, the ayes were 164, nays 0.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

Representative Dawkins-Haigler of the 93rd stated that she had been called from the floor of the House during the preceding roll call. She wished to be recorded as voting "aye" thereon.

SB 366. By Senators Grant of the 25th, Hamrick of the 30th, Crosby of the 13th, Carter of the 1st and Albers of the 56th:

A BILL to be entitled an Act to amend Chapter 4A of Title 49 of the Official Code of Georgia Annotated, relating to the Department of Juvenile Justice, so as to revise restrictions regarding possession of contraband at juvenile detention centers; to amend Code Section 16-15-3 of the Official Code of Georgia Annotated, relating to definitions in the 'Georgia Street Gang Terrorism and Prevention Act,' so as to provide for a cross-reference; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 4A of Title 49 of the Official Code of Georgia Annotated, relating to the Department of Juvenile Justice, so as to revise restrictions regarding possession of contraband at juvenile detention centers; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 4A of Title 49 of the Official Code of Georgia Annotated, relating to the Department of Juvenile Justice, is amended by revising Code Section 49-4A-11, relating to aiding escape, harboring, or hindering apprehension of juvenile under custody of the department, as follows:

"49-4A-11.

(a) Any person who shall knowingly aid, assist, or encourage any child or youth who has been committed to the department to escape or to attempt to escape its control or custody shall be guilty of a felony and, upon conviction thereof, shall be ~~imprisoned~~ punished by imprisonment for not less than one nor more than five years.

(b) Any person who shall knowingly harbor or shelter any child or youth who has escaped the lawful custody or control of the department shall be guilty of a felony and, upon conviction thereof, shall be ~~imprisoned~~ punished by imprisonment for not less than one nor more than five years.

(c) Any person who shall knowingly hinder the apprehension of any child under the lawful control or custody of the department who has been placed by the department in

one of its institutions or facilities and who has escaped therefrom or who has been placed under supervision and is alleged to have broken the conditions thereof shall be guilty of a felony and, upon conviction thereof, shall be ~~imprisoned~~ punished by imprisonment for not less than one nor more than five years.

~~(d) Any person who shall knowingly provide to any child under the lawful control or custody of the department a gun, pistol, or any other weapon, any intoxicating liquor, any controlled substance listed in Code Section 16-13-27 as a Schedule III controlled substance, listed in Code Section 16-13-28 as a Schedule IV controlled substance, or listed in Code Section 16-13-29 as a Schedule V controlled substance, or an immediate precursor of any such controlled substance, or any dangerous drug as defined by Code Section 16-13-71, regardless of the amount, or any other harmful, hazardous, or illegal article or item which may be injurious to department personnel without the consent of the director of the institution providing care and supervision to the child shall be guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than one nor more than five years.~~

~~(e) Any child who shall knowingly possess a gun, pistol, or any other weapon, any intoxicating liquor, any controlled substance listed in Code Section 16-13-27 as a Schedule III controlled substance, listed in Code Section 16-13-28 as a Schedule IV controlled substance, or listed in Code Section 16-13-29 as a Schedule V controlled substance, or an immediate precursor of any such controlled substance, or any dangerous drug as defined by Code Section 16-13-71, regardless of the amount, or any other harmful, hazardous, or illegal article or item which may be injurious to department personnel given to said child in violation of subsection (d) of this Code section while under the lawful custody or control of the department shall cause the department to file a delinquency petition in the court having jurisdiction; provided, however, if such person is 17 or older and is under the lawful custody or control of the department, such person shall be guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than one nor more than five years."~~

## SECTION 2.

Said chapter is further amended by adding new Code sections to read as follows:

"49-4A-15.

Guard lines shall be established by the commissioner or his or her designated representative in charge at the various juvenile detention centers and youth development centers in the same manner that land lines are established, except that, at each corner of the lines, signs must be used on which shall be plainly stamped or written: 'Guard line of \_\_\_\_\_.' Signs shall also be placed at all entrances and exits for vehicles and pedestrians at the institutions and at such intervals along the guard lines as will reasonably place all persons approaching the guard lines on notice of the location of the institutions.

49-4A-16.

(a) As used in this Code section, the term 'guard lines' means the lines established pursuant to Code Section 49-4A-15.

(b) It shall be unlawful for any person to cause to be introduced across guard lines or to come inside such guard lines with:

(1) A gun, pistol, knife, or any other weapon or a bullet, ammunition, or explosive device; or

(2) Any intoxicating liquor, amphetamines, marijuana, or any other hallucinogenic or other drugs.

(c) The provisions of this Code section shall not apply when the commissioner or director of the juvenile detention center or youth development center has provided authorization for the introduction of the items listed in subsection (b) of this Code section into such center.

(d) Any person who violates this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than four years.

49-4A-17.

(a)(1) Without the knowledge and consent of the commissioner or the director in charge of any juvenile detention center or youth development center, it shall be unlawful for any person to take into or cause to be introduced into such center any item which such person has been directed not to take into such center:

(A) Verbally by a staff member of such center;

(B) In writing by a staff member of such center; or

(C) As directed by the rules, regulations, or policies of such center.

(2) Any item taken into a center in violation of this subsection shall be deemed contraband and shall be subject to being confiscated and retained as property of the department.

(3) Any person who violates this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than four years.

(b) It shall be unlawful for any person to trade or traffic with, buy from, or sell any article to a youth assigned to a juvenile detention center or youth development center without the knowledge and consent of the commissioner or the director in charge of such center. Any person who violates this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than four years.

49-4A-18.

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

(1) 'Director' means the commissioner or any director of a juvenile detention center or his or her designee, or any other person who is responsible for the overall management and operation of a center.

(2) 'Juvenile detention center' means a regional youth detention center or youth development center operated by or on behalf of the department.

(3) 'Telecommunications device' means a device, an apparatus associated with a device, or a component of a device that enables, or may be used to enable, communication with a person outside a place of incarceration, including, but not limited to, a telephone, cellular telephone, personal digital assistant, transmitting radio, or computer connected or capable of being connected to a computer network, by wireless or other technology, or otherwise capable of communicating with a person or device outside of a place of incarceration.

(4) 'Youth' means an offender assigned to a juvenile detention center.

(b) Without the authorization of the director, it shall be unlawful for any person to obtain for, to procure for, or to give to a youth a gun, pistol, knife, or any other weapon; a bullet, ammunition, or any other explosive device; tobacco products; intoxicating liquor; marijuana, amphetamines, or any other hallucinogenic drugs or other drugs, regardless of the amount; any telecommunications device; or any other article or item.

(c) Without the authorization of the director, it shall be unlawful for a youth to possess a gun, pistol, knife, or any other weapon; a bullet, ammunition, or any other explosive device; tobacco products; intoxicating liquor; marijuana, amphetamines, or any other hallucinogenic drugs or other drugs, regardless of the amount; any telecommunications device; or any other article or item.

(d) Any person who violates this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than four years."

### SECTION 3.

This Act shall become effective on July 1, 2012, and shall apply to offenses committed on or after such date.

### SECTION 4.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

Abdul-Salaam	Y Davis	E Heckstall	Y Mayo	Y Setzler
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McBrayer	Y Shaw
Y Allison	Y Dempsey	Y Henson	Y McCall	Y Sheldon
Y Amerson	Y Dickerson	Y Hightower	Y McKillip	Y Sims, B
Y Anderson	Y Dickey	Y Hill	Meadows	Y Sims, C
Y Ashe	Y Dickson	Y Holcomb	Y Mitchell	Y Smith, E
Y Atwood	Y Dobbs	Y Holmes	Y Morgan	Y Smith, K
Y Baker	Y Dollar	Y Holt	Morris	Y Smith, L

Y Battles	Y Drenner	Y Horne	Y Mosby	Y Smith, R
E Beasley-Teague	Y Dudgeon	Y Houston	Y Murphy	Y Smith, T
Y Bell	Y Dukes	E Howard	Neal, J	Y Smyre
Y Benfield	Y Dunahoo	Y Hudson	E Neal, Y	Y Spencer
Y Benton	Y Dutton	Y Hugley	Y Nimmer	Y Stephens, M
Y Beverly	Ehrhart	Y Jackson	Y Nix	Y Stephens, R
Y Black	Y England	E Jacobs	Y Oliver	Y Stephenson
Y Braddock	Y Epps, C	Y James	Y O'Neal	Y Talton
Y Brockway	Y Epps, J	Y Jasperse	Y Pak	Y Tankersley
Y Brooks	Y Evans	Y Jerguson	Y Parent	Y Taylor, D
Y Bruce	Y Floyd	Y Johnson	Y Parrish	N Taylor, R
Y Bryant	Y Fludd	Y Jones, J	Parsons	E Taylor, T
Y Buckner	Y Frazier	Y Jones, S	Y Peake	Y Teasley
Y Burns	Fullerton	E Jordan	Y Powell, A	E Thomas
Y Byrd	Y Gardner	Y Kaiser	Y Powell, J	Y Waites
Y Carson	Y Geisinger	Kendrick	Y Pruett	Y Watson
Y Carter	Y Golic	Y Kidd	Y Purcell	Y Welch
Y Casas	Y Gordon	Y Kirby	Ramsey	Y Weldon
Y Channell	Y Greene	Y Knight	Y Randall	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lane	Y Reece	Y Wilkinson
Y Clark, J	Y Hanner	Y Lindsey	Y Rice	Y Willard
Y Clark, V	Y Harbin	Y Long	E Riley	Y Williams, A
Y Coleman	Y Harden, B	Y Maddox, B	Y Roberts	Y Williams, C
Y Collins	Y Harden, M	Y Maddox, G	Y Rogers, C	E Williams, E
Y Cooke	Y Harrell	Y Manning	Y Rogers, T	Y Williams, R
Y Coomer	Y Hatchett	Y Marin	Y Rynders	Y Williamson
Y Cooper	Y Hatfield	Y Martin	Y Scott, M	Y Yates
Crawford	Y Heard	Y Maxwell	Y Scott, S	Ralston, Speaker

On the passage of the Bill, by substitute, the ayes were 158, nays 1.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

Representatives Fullerton of the 151st and Meadows of the 5th stated that they had been called from the floor of the House during the preceding roll call. They wished to be recorded as voting "aye" thereon.

Representative Taylor of the 55th stated that he inadvertently voted "nay" on the preceding roll call. He wished to be recorded as voting "aye" thereon.

SB 416. By Senators Carter of the 1st, Bethel of the 54th and Golden of the 8th:

A BILL to be entitled an Act to amend Chapter 64 of Title 33 of the Official Code of Georgia Annotated, relating to regulation and licensure of pharmacy benefits managers, so as to authorize the Department of Insurance to develop exchange standards regarding electronic prior authorization drug requests with health care providers; to provide a definition; to provide that facsimiles are not electronic submissions; to provide for standards consistent with the

National Council of Prescription Drug Programs; to provide clinical workflow decision support of physician providers; to provide transmission security; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following Committee substitute was read and adopted:

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 64 of Title 33 of the Official Code of Georgia Annotated, relating to regulation and licensure of pharmacy benefits managers, so as to authorize the Department of Insurance to develop exchange standards regarding electronic prior authorization drug requests with health care providers; to provide a definition; to provide that facsimiles are not electronic submissions; to provide for adoption of the National Council of Prescription Drug Programs standards; to provide clinical workflow decision support of physician providers; to provide transmission security; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 64 of Title 33 of the Official Code of Georgia Annotated, relating to regulation and licensure of pharmacy benefits managers, is amended by adding a new Code section to read as follows:

"33-64-8.

(a) As used in this Code section, 'electronic prior authorization' or 'e-prior authorization' means a requirement that a prescriber obtain approval via electronic media from a health plan to prescribe a specific medication prior to dispensing. Facsimiles shall not be considered an electronic submission under this Code section except in the event that such electronic media is temporarily unavailable due to system failure or outage.

(b) No later than 24 months after the adoption of standards by the National Council of Prescription Drug Programs, the department shall under the direction of the Commissioner adopt standards by which the pharmacy benefits manager shall exchange standard e-prior authorization requests with health care providers for drugs and devices using electronic data interchange standards consistent with those adopted by the National Council of Prescription Drug Programs. Such standards shall support clinical workflow decision support of the physician provider.

(c) No later than 24 months after the adoption of standards by the National Council of Prescription Drug Programs, e-prior authorization requests shall be accessible and submitted by providers to pharmacy benefits managers and health plans through secure

electronic transmissions utilizing the current National Council of Prescription Drug Programs electronic prior authorization standard.

(d) Nothing in this Code section shall require any health care provider to participate in e-prior authorization or electronic prior authorization in order to obtain the necessary authorization for patient care."

## SECTION 2.

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

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

Abdul-Salaam	Davis	E Heckstall	Y Mayo	Y Setzler
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McBrayer	Y Shaw
Y Allison	Y Dempsey	Y Henson	Y McCall	Y Sheldon
Y Amerson	Y Dickerson	Y Hightower	Y McKillip	Y Sims, B
Y Anderson	Y Dickey	Y Hill	Y Meadows	Y Sims, C
Y Ashe	Y Dickson	Y Holcomb	Y Mitchell	Y Smith, E
Y Atwood	Y Dobbs	Y Holmes	Y Morgan	Y Smith, K
Y Baker	Y Dollar	Y Holt	Morris	Y Smith, L
Y Battles	Y Drenner	Y Horne	Y Mosby	Y Smith, R
E Beasley-Teague	Y Dudgeon	Y Houston	Y Murphy	Y Smith, T
Y Bell	Y Dukes	E Howard	Y Neal, J	Y Smyre
Y Benfield	Y Dunahoo	Y Hudson	E Neal, Y	Y Spencer
Y Benton	Y Dutton	Y Hugley	Y Nimmer	Y Stephens, M
Y Beverly	Y Ehrhart	Y Jackson	Y Nix	Y Stephens, R
Y Black	Y England	E Jacobs	Y Oliver	Y Stephenson
Y Braddock	Y Epps, C	Y James	Y O'Neal	Y Talton
Y Brockway	Y Epps, J	Y Jasperse	Y Pak	Y Tankersley
Y Brooks	Y Evans	Y Jerguson	Y Parent	Y Taylor, D
Y Bruce	Y Floyd	Y Johnson	Y Parrish	Y Taylor, R
Y Bryant	Y Fludd	Y Jones, J	Y Parsons	E Taylor, T
Y Buckner	Y Frazier	Y Jones, S	Y Peake	Y Teasley
Y Burns	Y Fullerton	E Jordan	Y Powell, A	E Thomas
Y Byrd	Y Gardner	Y Kaiser	Y Powell, J	Y Waites
Y Carson	Y Geisinger	Y Kendrick	Y Pruett	Y Watson
Y Carter	Y Golick	Y Kidd	Y Purcell	Y Welch
Y Casas	Y Gordon	Y Kirby	Y Ramsey	Y Weldon
Y Channell	Y Greene	Y Knight	Y Randall	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lane	Y Reece	Y Wilkinson
Y Clark, J	Y Hanner	Y Lindsey	Y Rice	Y Willard
Y Clark, V	Y Harbin	Y Long	E Riley	Y Williams, A
Y Coleman	Y Harden, B	Y Maddox, B	Y Roberts	Y Williams, C
Y Collins	Y Harden, M	Y Maddox, G	Y Rogers, C	E Williams, E
Y Cooke	Y Harrell	Y Manning	Y Rogers, T	Y Williams, R
Y Coomer	Y Hatchett	Y Marin	Y Rynders	Y Williamson
Y Cooper	Y Hatfield	E Martin	Y Scott, M	Y Yates
Y Crawford	Y Heard	Y Maxwell	Y Scott, S	Ralston, Speaker

On the passage of the Bill, by substitute, the ayes were 165, nays 0.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

Representative Davis of the 109th stated that he had been called from the floor of the House during the preceding roll call. He wished to be recorded as voting "aye" thereon.

SB 361. By Senators Miller of the 49th, Unterman of the 45th, Hooks of the 14th, Goggans of the 7th, Jackson of the 24th and others:

A BILL to be entitled an Act to amend Titles 31 and 43 of the Official Code of Georgia Annotated, relating to health and professions and businesses, respectively, so as to expand provisions relating to the accreditation of health care facilities to recognize the inclusion of additional nationally recognized health care accreditation bodies; to provide for conforming changes; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the Committee, which was favorable to the passage of the Bill, was agreed to.

On the passage of the Bill, the roll call was ordered and the vote was as follows:

Abdul-Salaam	Y Davis	E Heckstall	Y Mayo	Y Setzler
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McBrayer	Y Shaw
Y Allison	Y Dempsey	Y Henson	Y McCall	Y Sheldon
Y Amerson	Y Dickerson	Y Hightower	Y McKillip	Y Sims, B
Y Anderson	Y Dickey	Y Hill	Y Meadows	Y Sims, C
Y Ashe	Y Dickson	Y Holcomb	Y Mitchell	Y Smith, E
Y Atwood	Y Dobbs	Y Holmes	Y Morgan	Y Smith, K
Y Baker	Y Dollar	Y Holt	Morris	Y Smith, L
Y Battles	Y Drenner	Y Horne	Y Mosby	Y Smith, R
E Beasley-Teague	Y Dudgeon	Y Houston	Y Murphy	Y Smith, T
Y Bell	Y Dukes	E Howard	Y Neal, J	Y Smyre
Y Benfield	Y Dunahoo	Y Hudson	E Neal, Y	Y Spencer
Y Benton	Y Dutton	Hugley	Y Nimmer	Y Stephens, M
Y Beverly	Y Ehrhart	Y Jackson	Y Nix	Y Stephens, R
Y Black	Y England	E Jacobs	Y Oliver	Y Stephenson
Y Braddock	Y Epps, C	Y James	Y O'Neal	Y Talton
Y Brockway	Y Epps, J	Y Jasperse	Y Pak	Y Tankersley
Y Brooks	Y Evans	Y Jerguson	Y Parent	Y Taylor, D
Y Bruce	Y Floyd	Y Johnson	Y Parrish	Y Taylor, R
Y Bryant	Y Fludd	Y Jones, J	Y Parsons	E Taylor, T
Y Buckner	Y Frazier	Y Jones, S	Y Peake	Teasley
Y Burns	Y Fullerton	E Jordan	Y Powell, A	E Thomas
Y Byrd	Y Gardner	Y Kaiser	Y Powell, J	Y Waites
Y Carson	Y Geisinger	Y Kendrick	Y Pruett	Y Watson
Y Carter	Y Golick	Y Kidd	Y Purcell	Y Welch
Y Casas	Y Gordon	Y Kirby	Y Ramsey	Y Weldon

Y Channell	Y Greene	Y Knight	Y Randall	Y Wilkerson
Y Cheokas	Y Hamilton	Y Lane	Y Reece	Y Wilkinson
Y Clark, J	Y Hanner	Y Lindsey	Y Rice	Y Willard
Y Clark, V	Y Harbin	Long	E Riley	Y Williams, A
Y Coleman	Y Harden, B	Y Maddox, B	Y Roberts	Y Williams, C
Y Collins	Y Harden, M	Y Maddox, G	Y Rogers, C	E Williams, E
Y Cooke	Y Harrell	Y Manning	Y Rogers, T	Y Williams, R
N Coomer	Y Hatchett	Y Marin	Y Rynders	Y Williamson
Y Cooper	Y Hatfield	E Martin	Y Scott, M	Y Yates
Y Crawford	Y Heard	Y Maxwell	Y Scott, S	Ralston, Speaker

On the passage of the Bill, the ayes were 162, nays 1.

The Bill, having received the requisite constitutional majority, was passed.

Representative Willard of the 49th District, Chairman of the Committee on Judiciary, submitted the following report:

Mr. Speaker:

Your Committee on Judiciary has had under consideration the following Bills of the Senate and has instructed me to report the same back to the House with the following recommendations:

SB 356	Do Pass, by Substitute
SB 365	Do Pass, by Substitute

Respectfully submitted,  
/s/ Willard of the 49th  
Chairman

Under the general order of business, established by the Committee on Rules, the following Bill of the House was taken up for consideration and read the third time:

HB 386. By Representatives Channell of the 116th, O`Neal of the 146th, Jones of the 46th and Peake of the 137th:

A BILL to be entitled an Act to amend Titles 48, 2, 28, 33, 36, 46, and 50 of the O.C.G.A., relating respectively, to revenue and taxation, agriculture, the General Assembly, insurance, local government, public utilities, and state government, so as to provide for comprehensive revision of the revenue structure of the State of Georgia; to implement the recommendations of the 2010 Special Council on Tax Reform and Fairness for Georgians as provided for and required by Chapter 12 of the Title 28 of the O.C.G.A.; to repeal Article 3 of Chapter 5 of Title 28, relating to fiscal bills generally; to amend

certain titles of the O.C.G.A. so as to correct certain cross-references and make conforming changes; and for other purposes.

The following Committee substitute was read:

A BILL TO BE ENTITLED  
AN ACT

To amend Titles 2, 40, 44, and 48 of the Official Code of Georgia Annotated, relating to agriculture, motor vehicles, property, and revenue and taxation, respectively, so as to provide for the comprehensive revision of taxation of motor vehicles; to change certain provisions regarding tag agents; to provide for state and local title ad valorem tax fees as alternative ad valorem taxes; to provide for definitions; to provide for continuation of tag, revalidation, and registration fees; to provide for distribution of such state and local title ad valorem tax fees; to exclude certain vehicles from certain fees; to change certain provisions regarding classification of motor vehicles as a separate class of property for ad valorem tax purposes; to provide for an exemption from sales and use taxes only with respect to certain sales or purchases of certain motor vehicles; to provide for certain reports; to provide for certain penalties and sanctions; to provide for a study committee to review and report on such state and local title ad valorem tax fees; to change the personal exemption for married taxpayers filing an income tax return; to revise certain provisions regarding the exclusion of retirement income from taxable net income; to revise provisions relating to tax credits available to qualified donors of property for conservation purposes; to provide a maximum tax credit amount; to provide for additional requirements for donated conservation easements; to provide for certification procedures; to modify transferability of tax credits; to change certain provisions relating to the exemptions from sales and use tax for film producers and film production companies; to provide for revision of taxation of machinery and energy used in manufacturing and agriculture; to provide for the repeal of certain exemptions from state sales and use tax; to provide for a new exemption regarding the sale and use of machinery or equipment which is necessary and integral to the manufacture of tangible personal property and the sale, use, storage, or consumption of energy, industrial materials, or packaging supplies; to provide for definitions; to provide for procedures, conditions, and limitations; to provide for an exemption for sales to, or use by, a qualified agriculture producer of agricultural production inputs, energy used in agriculture, and agricultural machinery and equipment; to provide for definitions; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the Commissioner of Agriculture; to provide for a local excise tax on energy used in manufacturing; to provide for a new exemption for construction materials used in competitive projects of regional significance for a limited period of time; to modify the exemption for jet fuel; to revise the definition of dealer in order to expand the limits of nexus with this state for purposes of collecting state sales and use tax; to provide for sales tax exemptions for certain items on specified dates; to provide for related matters; to

provide for effective dates; to provide for applicability; to provide that existing prosecutions shall not abate; to provide for severability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**PART I**  
**SECTION 1-1.**

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended by revising Code Section 40-2-23, relating to county tax collectors and county tax commissioners' designation as tax agents, as follows:

"40-2-23.

(a) The tax collectors of the various counties of this state and the tax commissioners of those counties in which the duties of the tax collector are performed by a tax commissioner shall be designated as tag agents of the commissioner for the purpose of accepting applications for the registration of vehicles. The commissioner is authorized to promulgate rules and regulations for the purpose of delegating to such tag agents the custodial responsibility for properly receiving, processing, issuing, and storing motor vehicle titles or registrations, or both.

~~(b) The state revenue commissioner is authorized to further designate each such tag agent as a sales tax agent for the purpose of collecting sales and use tax with respect to the casual sale or casual use of a motor vehicle. For purposes of this Code section, 'casual sale' or 'casual use' means the sale of a motor vehicle by a person who is not regularly or systematically engaged in making retail sales of motor vehicles and the first use, consumption, distribution, or storage for use or consumption of such motor vehicle purchased through a casual sale. As personal compensation for services rendered to the Department of Revenue with respect to the collection of such sales and use tax, each such designated tag agent shall be authorized to retain from such collection a fee of \$200.00 per month. In any month in which an insufficient amount of such tax is collected to pay such fee, the amount of any such unpaid fee may be deferred until such month as sufficient collections are made. Such compensation shall be in addition to any other compensation to which such tax collector or tax commissioner is entitled.~~

~~(e)~~(b) The duties and responsibilities of agents of the commissioner designated under this Code section shall be a part of the official duties and responsibilities of the county tax collectors and tax commissioners."

**SECTION 1-2.**

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising Code Section 48-5-441, relating to classification of motor vehicles and mobile homes as separate classes of tangible property for ad valorem tax purposes, as follows:

"48-5-441.

(a)(1) For the purposes of ad valorem taxation, motor vehicles ~~are~~ shall be classified as a separate and distinct class of tangible property. Such class of tangible property shall be divided into two distinct and separate subclasses of tangible property with one subclass including heavy-duty equipment motor vehicles as defined in Code Section 48-5-505 and the other subclass including all other motor vehicles. The procedures prescribed by this article for returning motor vehicles, excluding heavy-duty equipment motor vehicles as defined in Code Section 48-5-505, for taxation, determining the applicable rates for taxation, and collecting the ad valorem tax imposed on motor vehicles shall be exclusive.

(2) This subsection shall not apply to motor vehicles subject to Code Section 48-5-441.1.

(b) For the purposes of ad valorem taxation, mobile homes ~~are~~ shall be classified as a separate and distinct class of tangible property. The procedures prescribed by this article for returning mobile homes for taxation, determining the applicable rates for taxation, and collecting the ad valorem tax imposed on mobile homes shall be exclusive.

(c)(1) For the purposes of ad valorem taxation, commercial vehicles ~~are~~ shall be classified as a separate and distinct class of tangible property. The procedures prescribed by this article for returning commercial vehicles for taxation and for determining the valuation of commercial vehicles shall be exclusive and as provided for in Code Section 48-5-442.1. All other procedures prescribed by this article for the taxation of motor vehicles shall be applicable to the taxation of commercial vehicles.

(2) This subsection shall not apply to motor vehicles subject to Code Section 48-5-441.1."

### **SECTION 1-3.**

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

"48-5-441.1.

In accordance with Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution, motor vehicles subject to the provisions of Code Section 48-5B-1 shall be classified as a separate and distinct class of tangible property for the purposes of ad valorem taxation."

### **SECTION 1-4.**

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

### "CHAPTER 5B

48-5B-1.

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

(1) 'Fair market value of the motor vehicle' means:

(A) The average of the current fair market value and the current wholesale value of a motor vehicle for a vehicle listed in the current motor vehicle ad valorem assessment manual utilized by the state revenue commissioner in determining taxable value of a motor vehicle under Code Section 48-5-442;

(B) For a used motor vehicle which is not so listed in such current motor vehicle ad valorem assessment manual, the value from the bill of sale or the value from a reputable used car market guide designated by the commissioner, whichever is greater; or

(C) The fair market value determined by the state revenue commissioner from the bill of sale of a new motor vehicle for which there is no value under subparagraph (A) of this paragraph, less any rebate and before any reduction for the trade-in value of another motor vehicle.

(2) 'Immediate family member' means spouse, parent, child, sibling, grandparent, or grandchild.

(3) 'Loaner vehicle' means a motor vehicle owned by a dealer which is withdrawn temporarily from dealer inventory for exclusive use as a courtesy vehicle loaned at no charge for a period not to exceed 30 days within a calendar year to any one customer whose motor vehicle is being serviced by such dealer.

(4) 'Rental charge' means the total value received by a rental motor vehicle concern for the rental or lease for 31 or fewer consecutive days of a rental motor vehicle, including the total cash and nonmonetary consideration for the rental or lease, including, but not limited to, charges based on time or mileage and charges for insurance coverage or collision damage waiver but excluding all charges for motor fuel taxes or sales and use taxes.

(5) 'Rental motor vehicle' means a motor vehicle designed to carry ten or fewer passengers and used primarily for the transportation of persons that is rented or leased without a driver.

(6) 'Rental motor vehicle concern' means a person or legal entity which owns or leases five or more rental motor vehicles and which regularly rents or leases such vehicles to the public for value.

(7) 'Trade-in value' means the value of the motor vehicle as stated in the bill of sale for a vehicle which has been traded in to the dealer in a transaction involving the purchase of another vehicle from the dealer.

(b)(1)(A) Except as otherwise provided in this subsection, any motor vehicle for which a title is issued in this state on or after March 1, 2013, shall be exempt from sales and use taxes to the extent provided under paragraph (92) of Code Section 48-8-3 and shall not be subject to the ad valorem tax as otherwise required under Chapter 5 of Title 48. Any such motor vehicle shall be titled as otherwise required under Title 40 but shall be subject to a state title fee and a local title fee which shall be alternative ad valorem taxes as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

(B)(i) As used in this subparagraph, the term:

(II) 'Local base amount' means \$1 billion.

(II) 'Local current collection amount' means the total amount of motor vehicle local ad valorem tax proceeds collected under this Code section and Chapter 5 of this title during the calendar year which immediately precedes the tax year in which the title ad valorem tax adjustments are required to be made under this subparagraph.

(III) 'Local target collection amount' means an amount equal to the local base amount added to the product of 2 percent of the local base amount multiplied by the number of years since 2012 with a maximum amount of \$1.2 billion.

(IV) 'State base amount' means \$535 million.

(V) 'State current collection amount' means the total amount of motor vehicle state ad valorem tax proceeds collected under this Code section and Chapter 5 of this title during the calendar year which immediately precedes the tax year in which the state and local title ad valorem tax rate is to be reviewed for adjustment under division (xiv) of this subparagraph. Notwithstanding the other provisions of this subdivision to the contrary, the term 'state current collection amount' for the 2014 calendar year for the purposes of the 2015 review under division (xiv) of this subparagraph shall be adjusted so that such amount is equal to the amount of motor vehicle state ad valorem tax proceeds that would have been collected under this Code section in 2014 if the combined state and local title ad valorem tax rate was 7 percent of the fair market value of the motor vehicle less any trade-in value plus the total amount of motor vehicle state ad valorem tax proceeds collected under Chapter 5 of this title during 2014.

(VI) 'State target collection amount' means an amount equal to the state base amount added to the product of 2 percent of the state base amount multiplied by the number of years since 2012.

(ii) The combined state and local title ad valorem tax shall be at a rate equal to:

(I) For the period commencing March 1, 2013, through December 31, 2013, 6.5 percent of the fair market value of the motor vehicle less any trade-in value;

(II) For the 2014 tax year, 6.75 percent of the fair market value of the motor vehicle less any trade-in value; and

(III) Except as provided in division (xiv) of this subparagraph, for the 2015 and subsequent tax years, 7 percent of the fair market value of the motor vehicle less any trade-in value.

(iii) For the period commencing March 1, 2013, through December 31, 2013, the state title ad valorem tax shall be at a rate equal to 57 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 43 percent of the tax rate specified in division (ii) of this subparagraph.

(iv) For the 2014 tax year, the state title ad valorem tax shall be at a rate equal to 55 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 45 percent of the tax rate specified in division (ii) of this subparagraph.

(v) For the 2015 tax year, the state title ad valorem tax shall be at a rate equal to 55 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 45 percent of the tax rate specified in division (ii) of this subparagraph.

(vi) For the 2016 tax year, except as otherwise provided in division (xiii) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 53.5 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 46.5 percent of the tax rate specified in division (ii) of this subparagraph.

(vii) For the 2017 tax year, except as otherwise provided in divisions (xiii) and (xiv) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 44 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 56 percent of the tax rate specified in division (ii) of this subparagraph.

(viii) For the 2018 tax year, except as otherwise provided in division (xiii) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 40 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 60 percent of the tax rate specified in division (ii) of this subparagraph.

(ix) For the 2019 tax year, except as otherwise provided in divisions (xiii) and (xiv) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 36 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 64 percent of the tax rate specified in division (ii) of this subparagraph.

(x) For the 2020 tax year, except as otherwise provided in division (xiii) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 34 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 66 percent of the tax rate specified in division (ii) of this subparagraph.

(xi) For the 2021 tax year, except as otherwise provided in division (xiii) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 30 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 70 percent of the tax rate specified in division (ii) of this subparagraph.

(xii) For the 2022 and all subsequent tax years, except as otherwise provided in division (xiii) of this subparagraph for tax years 2022, 2023, and 2024 and except as otherwise provided in division (xiv) of this subparagraph for tax year 2023, the state title ad valorem tax shall be at a rate equal to 28 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 72 percent of the tax rate specified in division (ii) of this subparagraph.

(xiii) Beginning in 2016, by not later than January 15 of each tax year through the 2022 tax year, the state revenue commissioner shall determine the local target

collection amount and the local current collection amount for the preceding calendar year. If such local current collection amount is equal to or within 1 percent of the local target collection amount, then the state title ad valorem tax rate and the local title ad valorem tax rate for such tax year shall remain at the rate specified in this subparagraph for that year. If the local current collection amount is more than 1 percent greater than the local target collection amount, then the local title ad valorem tax rate for such tax year shall be reduced automatically by operation of this division by such percentage amount as may be necessary so that, if such rate had been in effect for the calendar year under review, the local current collection amount would have produced an amount equal to the local target collection amount, and the state title ad valorem tax rate for such tax year shall be increased by an equal amount to maintain the combined state and local title ad valorem tax rate at the rate specified in division (ii) of this subparagraph. If the local current collection amount is more than 1 percent less than the local target collection amount, then the local title ad valorem tax rate for such tax year shall be increased automatically by operation of this division by such percentage amount as may be necessary so that, if such rate had been in effect for the calendar year under review, the local current collection amount would have produced an amount equal to the local target collection amount, and the state title ad valorem tax rate for such tax year shall be reduced by an equal amount to maintain the combined state and local title ad valorem tax rate at the rate specified in division (ii) of this subparagraph. In the event of an adjustment of such ad valorem tax rates, by not later than January 31 of such tax year, the state revenue commissioner shall notify the tax commissioner of each county in this state of the adjusted rate amounts. The effective date of such adjusted rate amounts shall be January 1 of such tax year.

(xiv) In tax years 2015, 2018, and 2022, by not later than July 1 of each such tax year, the state revenue commissioner shall determine the state target collection amount and the state current collection amount for the preceding calendar year. If such state current collection amount is greater than, equal to, or within 1 percent of the state target collection amount after making the adjustment, if any, required in division (xiii) of this subparagraph, then the combined state and local title ad valorem tax rate provided in division (ii) of this subparagraph shall remain at the rate specified in such division. If the state current collection amount is more than 1 percent less than the state target collection amount after making the adjustment, if any, required by division (xiii) of this subparagraph, then the combined state and local title ad valorem tax rate provided in division (ii) of this subparagraph shall be increased automatically by operation of this division by such percentage amount as may be necessary so that, if such rate had been in effect for the calendar year under review, the state current collection amount would have produced an amount equal to the state target collection amount, and the state title ad valorem tax rate and the local title ad valorem tax rate for the tax year in which such increase in the combined state and local title ad valorem tax rate shall become effective shall be

adjusted from the rates specified in this subparagraph or division (xiii) of this subparagraph for such tax year such that the proceeds from such increase in the combined state and local title ad valorem tax rate shall be allocated in full to the state. In the event of an adjustment of the combined state and local title ad valorem tax rate, by not later than August 31 of such tax year, the state revenue commissioner shall notify the tax commissioner of each county in this state of the adjusted combined state and local title ad valorem tax rate for the next calendar year. The effective date of such adjusted combined state and local title ad valorem tax rate shall be January 1 of the next calendar year. Notwithstanding the provisions of this division, the combined state and local title ad valorem tax rate shall not exceed 9 percent.

(xv) The state revenue commissioner shall promulgate such rules and regulations as may be necessary and appropriate to implement and administer this Code section, including, but not limited to, rules and regulations regarding appropriate public notification of any changes in rate amounts and the effective date of such changes and rules and regulations regarding appropriate enforcement and compliance procedures and methods for the implementation and operation of this Code section.

(C) The application for title and the state and local title ad valorem tax fees provided for in subparagraph (A) of this paragraph shall be paid to the tag agent in the county in which the purchaser registers such motor vehicle and shall be paid at the time the purchaser applies for a title and registers such motor vehicle. A dealer of new or used motor vehicles may accept such application for title and state and local title ad valorem tax fees on behalf of the purchaser of a new or used motor vehicle for the purpose of delivering such title application and state and local title ad valorem tax fees to the county tag agent to obtain a tag and title for the purchaser of such motor vehicle.

(D) There shall be a penalty imposed on any person who, in the determination of the commissioner, falsifies any information in any bill of sale used for purposes of determining the fair market value of the motor vehicle. Such penalty shall not exceed \$2,500.00 as a state penalty and shall not exceed \$2,500.00 as a local penalty as determined by the commissioner. Such determination shall be made within 60 days of the commissioner receiving information of a possible violation of this paragraph.

(E) A dealer of new or used motor vehicles that accepts an application for title and state and local title ad valorem tax fees from a purchaser of a new or used motor vehicle and does not transmit such application for title and state and local title ad valorem tax fees to the county tag agent within 10 days following the date of purchase shall be liable to the county tag agent for an amount equal to 5 percent of the amount of such state and local title ad valorem tax fees. An additional 5 percent penalty shall be imposed for each subsequent month the payment is not transmitted.

(F) A dealer of new or used motor vehicles that accepts an application for title and state and local title ad valorem tax fees from a purchaser of a new or used motor

vehicle and converts such fees to his or her own use shall be guilty of theft by conversion and, upon conviction, shall be punished as provided in Code Section 16-8-12.

(2) A person or entity acquiring a salvage title pursuant to subsection (b) of Code Section 40-3-36 shall not be subject to the fee specified in paragraph (1) of this subsection but shall be subject to a state title ad valorem tax fee in an amount equal to 1 percent of the fair market value of the motor vehicle. Such state title ad valorem tax fee shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

(c)(1) The amount of proceeds collected by tag agents each month as state and local title ad valorem tax fees, state salvage title ad valorem tax fees, administrative fees, penalties, and interest pursuant to subsection (b) of this Code section shall be allocated and disbursed as provided in this subsection.

(2) For the 2013 tax year and in each subsequent tax year, the amount of such funds shall be disbursed within 30 days following the end of each calendar month as follows:

(A) State title ad valorem tax fees, state salvage title ad valorem tax fees, administrative fees, penalties, and interest shall be remitted to the state revenue commissioner who shall deposit such proceeds in the general fund of the state less an amount to be retained by the tag agent not to exceed 1 percent of the total amount otherwise required to be remitted under this subparagraph to defray the cost of administration. Such retained amount shall be remitted to the collecting county's general fund. Failure by the tag agent to disburse within such 30 day period shall result in a forfeiture of such administrative fee plus interest on such amount at the rate specified in Code Section 48-2-40; and

(B) Local title ad valorem tax fees, administrative fees, penalties, and interest shall be designated as local government ad valorem tax funds. The tag agent shall then distribute the proceeds as specified in paragraph (3) of this subsection.

(3) The local title ad valorem tax fee proceeds required under this subsection shall be distributed as follows:

(A) The tag agent of the county shall within 30 days following the end of each calendar month allocate and distribute to the county governing authority and to municipal governing authorities, the board of education of the county school district, and the board of education of any independent school district located in such county an amount of those proceeds necessary to offset any reduction in ad valorem tax on motor vehicles collected under Chapter 5 of Title 48 in the taxing jurisdiction of each governing authority and school district from the amount of ad valorem taxes on motor vehicles collected under Chapter 5 of Title 48 in each such governing authority and school district during the same calendar month of 2012. This reduction shall be calculated by subtracting the amount of ad valorem tax on motor vehicles collected under Chapter 5 of Title 48 in each such taxing jurisdiction from the amount of ad valorem tax on motor vehicles collected under Chapter 5 of Title 48 in that taxing jurisdiction in the same calendar month of 2012. In the event

that the local title ad valorem tax fee proceeds are insufficient to fully offset such reduction in ad valorem taxes on motor vehicles, the tag agent shall allocate a proportionate amount of the proceeds to each governing authority and to the board of education of each such school district, and any remaining shortfall shall be paid from the following month's local title ad valorem tax fee proceeds. In the event that a shortfall remains, the tag agent shall continue to first allocate local title ad valorem tax fee proceeds to offset such shortfalls until the shortfall has been fully repaid; and (B) Of the proceeds remaining following the allocation and distribution under subparagraph (A) of this paragraph, the tag agent shall allocate and distribute to the county governing authority and to municipal governing authorities, the board of education of the county school district, and the board of education of any independent school district located in such county the remaining amount of those proceeds in the manner provided in this subparagraph. Such proceeds shall be deposited in the general fund of such governing authority or board of education and shall not be subject to any use or expenditure requirements provided for under any of the following described local sales and use taxes but shall be authorized to be expended in the same manner as authorized for the ad valorem tax revenues on motor vehicles under Chapter 5 of Title 48 which would otherwise have been collected for such governing authority or board of education. Of such remaining proceeds:

(i) An amount equal to one-third of such proceeds shall be distributed to the board of education of the county school district and the board of education of each independent school district located in such county in the same manner as required for any local sales and use tax for educational purposes levied pursuant to Part 2 of Article 3 of Chapter 8 of Title 48 currently in effect. If such tax is not currently in effect, such proceeds shall be distributed to such board or boards of education in the same manner as if such tax were in effect;

(ii)(I) Except as otherwise provided in this division, an amount equal to one-third of such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county in the same manner as specified under the distribution certificate for the joint county and municipal sales and use tax under Article 2 of Chapter 8 of Title 48 currently in effect.

(II) If such tax were never in effect, such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county on a pro rata basis according to the ratio of the population that each such municipality bears to the population of the entire county.

(III) If such tax is currently in effect as well as a local option sales and use tax for educational purposes levied pursuant to a local constitutional amendment, an amount equal to one-third of such proceeds shall be distributed in the same manner as required under subdivision (I) of this division and an amount equal to

one-third of such proceeds shall be distributed to the board of education of the county school district.

(IV) If such tax is not currently in effect and a local option sales and use tax for educational purposes levied pursuant to a local constitutional amendment is currently in effect, such proceeds shall be distributed to the board of education of the county school district and the board of education of any independent school district in the same manner as required under that local constitutional amendment.

(V) If such tax is not currently in effect and a homestead option sales and use tax under Article 2A of Chapter 8 of Title 48 is in effect, such proceeds shall be distributed to the governing authority of the county, each qualified municipality, and each existing municipality in the same proportion as otherwise required under Code Section 48-8-104; and

(iii)(I) An amount equal to one-third of such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county in the same manner as specified under an intergovernmental agreement or as otherwise required under the county special purpose local option sales and use tax under Part 1 of Article 3 of Chapter 8 of Title 48 currently in effect; provided, however, that this subdivision shall not apply if subdivision (III) of division (ii) of this subparagraph is applicable.

(II) If such tax were in effect but expired and is not currently in effect, such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county in the same manner as if such tax were still in effect according to the intergovernmental agreement or as otherwise required under the county special purpose local sales and use tax under Part 1 of Article 3 of Chapter 8 of Title 48 for the 12 month period commencing at the expiration of such tax. If such tax is not renewed prior to the expiration of such 12 month period, such amount shall be distributed in accordance with subdivision (I) of division (ii) of this subparagraph; provided, however, that if a tax under Article 2 of Chapter 8 of Title 48 is not in effect, such amount shall be distributed in accordance with subdivision (II) of division (ii) of this subparagraph.

(III) If such tax is not currently in effect in a county in which a tax is levied for purposes of a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Ga. L. 1964, p. 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the Constitution; and the laws enacted pursuant to such constitutional amendment, such proceeds shall be distributed to the governing body of the authority created by local Act to operate such metropolitan area system of public transportation.

(IV) If such tax were never in effect, such proceeds shall be distributed in the same manner as specified under the distribution certificate for the joint county and municipal sales and use tax under Article 2 of Chapter 8 of Title 48

currently in effect; provided, however, that if such tax under such article is not in effect, such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county on a pro rata basis according to the ratio of the population that each such municipality bears to the population of the entire county.

(d)(1)(A) Upon the death of an owner of a motor vehicle which has not become subject to paragraph (1) of subsection (b) of this Code section, the immediate family member or immediate family members of such owner who receive such motor vehicle pursuant to a will or under the rules of inheritance shall, subsequent to the transfer of title of such motor vehicle, continue to be subject to ad valorem tax under Chapter 5 of Title 48 and shall not be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section unless the immediate family member or immediate family members make an affirmative written election to become subject to paragraph (1) of subsection (b) of this Code section. In the event of such election, such transfer shall be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section.

(B) Upon the death of an owner of a motor vehicle which has become subject to paragraph (1) of subsection (b) of this Code section, the immediate family member or immediate family members of such owner who receive such motor vehicle pursuant to a will or under the rules of inheritance shall be subject to a state title ad valorem tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the motor vehicle and a local title ad valorem tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

(2)(A) Upon the transfer from an immediate family member of a motor vehicle which has not become subject to paragraph (1) of subsection (b) of this Code section, the immediate family member or immediate family members who receive such motor vehicle shall, subsequent to the transfer of title of such motor vehicle, continue to be subject to ad valorem tax under Chapter 5 of Title 48 and shall not be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section unless the immediate family member or immediate family members make an affirmative written election to become subject to paragraph (1) of subsection (b) of this Code section. In the event of such election, such transfer shall be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section.

(B) Upon the transfer from an immediate family member of a motor vehicle which has become subject to paragraph (1) of subsection (b) of this Code section, the immediate family member who receives such motor vehicle shall transfer title of such motor vehicle to such recipient family member and shall be subject to a state title ad valorem tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the motor vehicle and a local title ad valorem tax fee in an amount

equal to one-quarter of 1 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

(C) Any title transfer under this paragraph shall be accompanied by an affidavit of the transferor and transferee that such persons are immediate family members to one another. There shall be a penalty imposed on any person who, in the determination of the state revenue commissioner, falsifies any material information in such affidavit. Such penalty shall not exceed \$2,500.00 as a state penalty and shall not exceed \$2,500.00 as a local penalty as determined by the state revenue commissioner. Such determination shall be made within 60 days of the state revenue commissioner receiving information of a possible violation of this paragraph.

(3) Any individual who:

(A) Is required by law to register a motor vehicle or motor vehicles in this state which were registered in the state in which such person formerly resided; and

(B) Is required to file an application for a certificate of title under Code Section 40-3-21 or 40-3-32

shall only be required to pay state and local title ad valorem tax fees in the amount of 50 percent of the amount which would otherwise be due and payable under this subsection at the time of filing the application for a certificate of title, and the remaining 50 percent shall be paid within 12 months.

(4) The state and local title ad valorem tax fees provided for under this Code section shall not apply to corrected titles, replacement titles under Code Section 40-3-31, or titles reissued to the same owner pursuant to Code Sections 40-3-50 through 40-3-56.

(5) Any motor vehicle subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section shall continue to be subject to the title, license plate, revalidation decal, and registration requirements and applicable fees as otherwise provided in Title 40 in the same manner as motor vehicles which are not subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section.

(6) Motor vehicles owned or leased by or to the state or any county, consolidated government, municipality, county or independent school district, or other government entity in this state shall not be subject to the state and local title ad valorem tax fees provided for under paragraph (1) of subsection (b) of this Code section; provided, however, that such other government entity shall not qualify for the exclusion under this paragraph unless it is exempt from ad valorem tax and sales and use tax pursuant to general law.

(7)(A) Any motor vehicle which is exempt from sales and use tax pursuant to paragraph (30) of Code Section 48-8-3 shall be exempt from state and local title ad valorem tax fees under this subsection.

(B) Any motor vehicle which is exempt from ad valorem taxation pursuant to Code Section 48-5-478, 48-5-478.1, 48-5-478.2, or 48-5-478.3 shall be exempt from state

and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section.

(8) There shall be a penalty imposed on the transfer of all or any part of the interest in a business entity that includes primarily as an asset of such business entity one or more motor vehicles, when, in the determination of the state revenue commissioner, such transfer is done to evade the payment of state and local title ad valorem tax fees under this subsection. Such penalty shall not exceed \$2,500.00 as a state penalty per motor vehicle and shall not exceed \$2,500.00 as a local penalty per motor vehicle, as determined by the state revenue commissioner, plus the amount of the state and local title ad valorem tax fees. Such determination shall be made within 60 days of the state revenue commissioner receiving information that a transfer may be in violation of this paragraph.

(9) Any owner of any motor vehicle who fails to submit within 30 days of the date such owner is required by law to register such vehicle in this state an application for a first certificate of title under Code Section 40-3-21 or a certificate of title under Code Section 40-3-32 shall be required to pay a penalty in the amount of 10 percent of the state title ad valorem tax fees and 10 percent of the local title ad valorem tax fees required under this Code section, plus interest at the rate of 1.0 percent per month, unless a temporary permit has been issued by the tax commissioner. The tax commissioner shall grant a temporary permit in the event the failure to timely apply for a first certificate of title is due to the failure of a lienholder to comply with Code Section 40-3-56, regarding release of a security interest or lien, and no penalty or interest shall be assessed. Such penalty and interest shall be in addition to the penalty and fee required under Code Section 40-3-21 or 40-3-32, as applicable. A new or used motor vehicle dealer shall be responsible for remitting state and local title ad valorem tax fees in the same manner as otherwise required of an owner under this paragraph and shall be subject to the same penalties and interest as an owner for noncompliance with the requirements of this paragraph.

(10) The owner of any motor vehicle purchased in this state for which a title was issued in this state on or after January 1, 2012, and prior to March 1, 2013, shall be authorized to opt in to the provisions of this subsection at any time prior to January 1, 2014, upon compliance with the following requirements:

(A)(i) The total amount of state and local title ad valorem tax fees which would be due from March 1, 2013, to December 31, 2013, if such vehicle had been titled in 2013 shall be determined; and

(ii) The total amount of state and local sales and use tax and state and local ad valorem tax under Chapter 5 of Title 48 which were due and paid in 2012 for that motor vehicle and, if applicable, the total amount of such taxes which were due and paid for that motor vehicle in 2013 shall be determined; and

(B)(i) If the amount derived under division (i) of subparagraph (A) of this paragraph is greater than the amount derived under division (ii) subparagraph (A) of this paragraph, the owner shall remit the difference to the tag agent. Such remittance shall be deemed local title ad valorem tax fee proceeds; or

(ii) If the amount derived under division (i) of subparagraph (A) of this paragraph is less than the amount derived under division (ii) of subparagraph (A) of this paragraph, no additional amount shall be due and payable by the owner.

Upon certification by the tag agent of compliance with the requirements of this paragraph, such motor vehicle shall not be subject to ad valorem tax as otherwise required under Chapter 5 of Title 48 in the same manner as otherwise provided in paragraph (1) of subsection (b) of this Code section.

(11)(A) In the case of rental motor vehicles owned by a rental motor vehicle concern, the state title ad valorem tax fee shall be in an amount equal to .75 percent of the fair market value of the motor vehicle, and the local title ad valorem tax fee shall be in an amount equal to .75 percent of the fair market value of the motor vehicle, but only if in the immediately prior calendar year the average amount of sales and use tax attributable to the rental charge of each such rental motor vehicle was at least \$400.00 as certified by the state revenue commissioner.

(B) Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

(12) A loaner vehicle shall not be subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section for a period of time not to exceed six months in a calendar year commencing on the date such loaner vehicle is withdrawn temporarily from inventory. Immediately upon the expiration of such six-month period, if the dealer does not return the loaner vehicle to inventory for resale, the dealer shall be responsible for remitting state and local title ad valorem tax fees in the same manner as otherwise required of an owner under paragraph (9) of this subsection and shall be subject to the same penalties and interest as an owner for noncompliance with the requirements of paragraph (9) of this subsection.

(13) Any motor vehicle which is donated to a nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code for the purpose of being transferred to another person shall, when titled in the name of such nonprofit organization, not be subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section but shall be subject to state and local title ad valorem tax fees otherwise applicable to salvage titles under paragraph (2) of subsection (b) of this Code section.

(e) The fair market value of any motor vehicle subject to this Code section shall be appealable in the same manner as otherwise authorized for a motor vehicle subject to ad valorem taxation under Code Section 48-5-450.

(f) Beginning in 2014, on or before January 31 of each year, the department shall provide a report to the chairpersons of the House Committee on Ways and Means and the Senate Finance Committee showing the state and local title ad valorem tax fee revenues collected pursuant to this chapter and the motor vehicle ad valorem tax proceeds collected pursuant to Chapter 5 of this title during the preceding calendar year."

**SECTION 1-5.**

Said title is further amended in Code Section 48-8-3, relating to exemptions from sales and use tax, by replacing "; or" with a semicolon at the end of paragraph (90), replacing the period at the end of paragraph (91) with "; or", and by adding a new paragraph to read as follows:

"(92) The sale or purchase of any motor vehicle titled in this state on or after March 1, 2013, pursuant to Code Section 48-5B-1. This exemption shall not apply to leases or rentals of motor vehicles or to those sales and use taxes collected pursuant to subsection (d) of Code Section 48-8-241."

**PART II****SECTION 2-1.**

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising subsection (b) of Code Section 48-7-26, relating to personal exemptions from income taxes, as follows:

"(b)(1) An exemption of ~~\$5,400.00~~ \$7,400.00 shall be allowed as a deduction in computing Georgia taxable income of a taxpayer and spouse, but only if a joint return is filed. If a taxpayer and spouse file separate returns, \$3,700.00 shall be allowed to each person as a deduction in computing Georgia taxable income.

(2) An exemption of \$2,700.00 shall be allowed as a deduction in computing Georgia taxable income for ~~each taxpayer other than a taxpayer who files a joint return~~ all taxpayers other than taxpayers who qualify for the exemption provided for in paragraph (1) of this subsection.

~~(3)(A) For taxable years beginning on or after January 1, 1994, and prior to January 1, 1995, an exemption of \$2,000.00 for each dependent of a taxpayer shall be allowed as a deduction in computing Georgia taxable income of the taxpayer.~~

~~(B) For taxable years beginning on or after January 1, 1995, and prior to January 1, 1998, an exemption of \$2,500.00 for each dependent of a taxpayer shall be allowed as a deduction in computing Georgia taxable income of the taxpayer.~~

~~(C) For taxable years beginning on or after January 1, 1998, an exemption of \$2,700.00 for each dependent of a taxpayer shall be allowed as a deduction in computing Georgia taxable income of the taxpayer.~~

~~(4)~~(3) Commencing with the taxable year beginning January 1, 2003, an exemption of \$3,000.00 for each dependent of a taxpayer shall be allowed as a deduction in computing Georgia taxable income of the taxpayer."

**SECTION 2-2.**

Said title is further amended by revising paragraph (5) of subsection (a) of Code Section 48-7-27, relating to the computation of taxable net income, as follows:

"(5)(A) Retirement income otherwise included in Georgia taxable net income shall be subject to an exclusion amount as follows:

- (i) For taxable years beginning on or after January 1, 1989, and prior to January 1, 1990, retirement income not to exceed an exclusion amount of \$8,000.00 per year received from any source;
- (ii) For taxable years beginning on or after January 1, 1990, and prior to January 1, 1994, retirement income not to exceed an exclusion amount of \$10,000.00 per year received from any source;
- (iii) For taxable years beginning on or after January 1, 1994, and prior to January 1, 1995, retirement income from any source not to exceed an exclusion amount of \$11,000.00;
- (iv) For taxable years beginning on or after January 1, 1995, and prior to January 1, 1999, retirement income from any source not to exceed an exclusion amount of \$12,000.00;
- (v) For taxable years beginning on or after January 1, 1999, and prior to January 1, 2000, retirement income from any source not to exceed an exclusion amount of \$13,000.00;
- (vi) For taxable years beginning on or after January 1, 2000, and prior to January 1, 2001, retirement income not to exceed an exclusion amount of \$13,500.00 per year received from any source;
- (vii) For taxable years beginning on or after January 1, 2001, and prior to January 1, 2002, retirement income from any source not to exceed an exclusion amount of \$14,000.00;
- (viii) For taxable years beginning on or after January 1, 2002, and prior to January 1, 2003, retirement income from any source not to exceed an exclusion amount of \$14,500.00;
- (ix) For taxable years beginning on or after January 1, 2003, and prior to January 1, 2006, retirement income from any source not to exceed an exclusion amount of \$15,000.00;
- (x) For taxable years beginning on or after January 1, 2006, and prior to January 1, 2007, retirement income from any source not to exceed an exclusion amount of \$25,000.00;
- (xi) For taxable years beginning on or after January 1, 2007, and prior to January 1, 2008, retirement income from any source not to exceed an exclusion amount of \$30,000.00;
- (xii) For taxable years beginning on or after January 1, 2008, and prior to January 1, 2012, retirement income from any source not to exceed an exclusion amount of \$35,000.00; and
- (xiii) For taxable years beginning on or after January 1, 2012, ~~and prior to January 1, 2013,~~ retirement income from any source not to exceed an exclusion amount of \$35,000.00 for each taxpayer meeting the eligibility requirement set forth in division (i) or (ii) of subparagraph (D) of this paragraph or an amount of \$65,000.00 for each taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph (D) of this paragraph;

~~(xiv) For taxable years beginning on or after January 1, 2013, and prior to January 1, 2014, retirement income from any source not to exceed an exclusion amount of \$35,000.00 for each taxpayer meeting the eligibility requirement set forth in division (i) or (ii) of subparagraph (D) of this paragraph or an amount of \$100,000.00 for each taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph (D) of this paragraph;~~

~~(xv) For taxable years beginning on or after January 1, 2014, and prior to January 1, 2015, retirement income from any source not to exceed an exclusion amount of \$35,000.00 for each taxpayer meeting the eligibility requirement set forth in division (i) or (ii) of subparagraph (D) of this paragraph or an amount of \$150,000.00 for each taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph (D) of this paragraph;~~

~~(xvi) For taxable years beginning on or after January 1, 2015, and prior to January 1, 2016, retirement income from any source not to exceed an exclusion amount of \$35,000.00 for each taxpayer meeting the eligibility requirement set forth in division (i) or (ii) of subparagraph (D) of this paragraph or an amount of \$200,000.00 for each taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph (D) of this paragraph; and~~

~~(xvii) For taxable years beginning on or after January 1, 2016, retirement income from any source not to exceed an exclusion amount of \$35,000.00 for each taxpayer meeting the eligibility requirement set forth in division (i) or (ii) of subparagraph (D) of this paragraph or an exclusion of all retirement income from any source for each taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph (D) of this paragraph.~~

(B) In the case of a married couple filing jointly, each spouse shall if otherwise qualified be individually entitled to exclude retirement income received by that spouse up to the exclusion amount.

(C) The exclusions provided for in this paragraph shall not apply to or affect and shall be in addition to those adjustments to net income provided for under any other paragraph of this subsection.

(D) A taxpayer shall be eligible for the exclusions granted by this paragraph only if the taxpayer:

(i) Is 62 years of age or older but less than 65 years of age during any part of the taxable year; or

(ii) Is permanently and totally disabled in that the taxpayer has a medically demonstrable disability which is permanent and which renders the taxpayer incapable of performing any gainful occupation within the taxpayer's competence; or

(iii) Is 65 years of age or older during any part of the year.

(E) For the purposes of this paragraph, retirement income shall include but not be limited to interest income, dividend income, net income from rental property, capital gains income, income from royalties, income from pensions and annuities, and no more than \$4,000.00 of an individual's earned income. Earned income in excess of

\$4,000.00, including but not limited to net business income earned by an individual from any trade or business carried on by such individual, wages, salaries, tips, and other employer compensation, shall not be regarded as retirement income. The receipt of earned income shall not diminish any taxpayer's eligibility for the retirement income exclusions allowed by this paragraph except to the extent of the express limitation provided in this subparagraph.

(F) The commissioner shall by regulation require proof of the eligibility of the taxpayer for the exclusions allowed by this paragraph.

(G) The commissioner shall by regulation provide that for taxable years beginning on or after January 1, 1989, and ending before October 1, 1990, penalty and interest may be waived or reduced for any taxpayer whose estimated tax payments and tax withholdings are less than 70 percent of such taxpayer's Georgia income tax liability if the commissioner determines that such underpayment or deficiency is due to an increase in net taxable income attributable directly to amendments to this paragraph or paragraph (4) of this subsection enacted at the 1989 special session of the General Assembly and not due to willful neglect or fraud;"

### PART III SECTION 3-1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising Code Section 48-7-29.12, relating to tax credits for qualified donation of real property, carryover of credit, appraisals, transfer of credit, and penalty, as follows:

"48-7-29.12.

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

(1) 'Conservation easement' means a nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which are consistent with at least two conservation purposes.

(2) 'Conservation purpose' means any of the following:

(A) Water quality protection for wetlands, rivers, streams, or lakes;

(B) Protection of wildlife habitat consistent with state wildlife conservation policies;

(C) Protection of outdoor recreation consistent with state outdoor recreation policies;

(D) Protection of prime agricultural or forestry lands; and

(E) Protection of cultural sites, heritage corridors, or archeological and historic resources.

(3) 'Donated property' means the real property of which a qualified donation is made pursuant to this Code section.

(4) 'Eligible donor' means any person who owns an interest in a qualified donation.

(5) 'Fair market value' means the value of the donated property established by a property appraisal or appraisals meeting the requirements of Section 170 of Title 26 of the United States Code, to be submitted in such manner as the commissioner may

~~by regulation require~~ as determined pursuant to subsections (c.1) and (c.2) of this Code section.

~~(2)(6)~~ 'Qualified donation' means the fee simple conveyance to the state; a county, a municipality, or a consolidated government of this state; ~~to~~ the federal government; or a bona fide charitable nonprofit organization qualified under the Internal Revenue Code and, beginning on January 1, 2014, accredited by the Land Trust Accreditation Commission of 100 percent of all right, title, and interest in the entire parcel of donated real property, which and the donation is accepted by such state, county, municipality, consolidated government, federal government, or bona fide charitable nonprofit organization for use in a manner consistent with at least two conservation purposes. Such term shall also include the donation to and acceptance by the state; a county, a municipality, or a consolidated government of this state; ~~to~~ the federal government; or a bona fide charitable nonprofit organization qualified under the Internal Revenue Code and, beginning on January 1, 2014, accredited by the Land Trust Accreditation Commission of an interest in real property which qualifies as a conservation easement under paragraph (4) of Code Section 12-6A-2. Any real property which is otherwise required to be dedicated pursuant to local government regulations or ordinances or to increase building density levels shall not be eligible as a qualified donation under this Code section. Any real property which is used for or associated with the playing of golf or is planned to be so used or associated shall not be eligible as a qualified donation under this Code section.

~~(3) 'Eligible donor' means any person who owns an interest in a qualified donation.~~

~~(4)(7)~~ 'Related person' has the meaning provided by Code Section 48-7-28.3.

~~(5)(8)~~ 'Substantial valuation misstatement' means a valuation such that the claimed value of any property claimed on any return of tax imposed under this chapter, or on any claim for refund of such tax, on the appraisal as submitted to the State Properties Commission is 150 percent or more of the amount determined to be the correct amount of such valuation pursuant to subsections (c.1) and (c.2) of this Code section.

(b)(1) A taxpayer shall be allowed a state income tax credit against the tax imposed by Code Section 48-7-20 or Code Section 48-7-21 for each qualified donation ~~of real property for conservation purposes~~ under this Code section.

(2) Except as otherwise provided in paragraph (3) of this subsection and in subsection (d) of this Code section, such credit shall be limited to an amount not to exceed the lesser of \$500,000.00, 25 percent of the fair market value of the donated real property as fair market value is established for the year in which the donation occurred, or 25 percent of the difference between the fair market value and the amount paid to the donor if the donation is effected by a sale of property for less than fair market value as established for the year in which the donation occurred.

(3) Except as otherwise provided in subsection (d) of this Code section, in the case of a taxpayer whose net income is determined under Code Section 48-7-23, the aggregate total credit allowed to all partners in a partnership shall be limited to an amount not to exceed the lesser of ~~\$1 million~~ \$500,000.00, 25 percent of the fair market value of the donated real property as fair market value is established for the

year in which the donation occurred, or 25 percent of the difference between the fair market value and the amount paid to the donor if the donation is effected by a sale of property for less than fair market value as established for the year in which the donation occurred.

(c) No tax credit shall be allowed under this Code section unless the taxpayer files with the taxpayer's income tax return a copy of the State Property Commission's determination and a copy of a certification issued by the Department of Natural Resources that the donated property is suitable for conservation purposes- and meets the following additional requirements, where applicable:

(1) Subdivision is prohibited for a donated property of less than 500 acres and limited to one subdivision for a donated property of 500 acres or more;

(2) New construction on donated property of structures, roads, impoundments, ditches, dumping, or any other activity that would harm the protected conservation values of such donation is prohibited on such property;

(3) New construction on donated property within 150 feet of any perennial or intermittent stream is prohibited;

(4) A buffer of at least 100 feet on each side of any perennial streams on donated property which ensures at least 75 percent tree canopy evenly distributed after harvest is maintained and a buffer of at least 50 feet on each side of any intermittent streams on donated property which ensures at least 75 percent tree canopy evenly distributed after harvest is maintained;

(5) Timber and agricultural activities undertaken on the donated property are prohibited unless in accordance with best management practices published by the State Forestry Commission or the Soil and Water Conservation Commission, as the case may be;

(6) New construction on donated property causing more than 1 percent of such property's total surface area to be covered by impervious surfaces is prohibited;

(7) Mining on the property is prohibited; and

(8) Planting on the donated property of non-native invasive species listed in Category 1, Category 1 Alert, or Category 2 of the 'List of Non-Native Invasive Plants in Georgia' developed by the Georgia Exotic Pest Council is prohibited.

~~The Board of Natural Resources shall promulgate any rules and regulations necessary to implement and administer this subsection, including, but not limited to, policies to guide the determination of whether or not donated property is suitable for conservation purposes. A final determination by the Department of Natural Resources with respect to the suitability of donated property for conservation purposes shall be subject to review and appeal under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'~~

(c.1) For each application for certification, the Department of Natural Resources shall require submission of an appraisal of the qualified donation by the taxpayer along with a nonrefundable \$5,000.00 application fee; provided, however, that the nonrefundable application fee for property donated to the state shall be 1 percent of the total value of the donation, unless such donation is being made to qualify the state for a federal or

state grant. The appraisal required by this subsection shall be a full narrative appraisal and include:

- (1) A certification page, as established by the Uniform Standards of Professional Appraisal Practice, signed by the appraiser; and
- (2) An affidavit signed by the appraiser which includes a statement specifying:
  - (A) The value of the unencumbered property, the total value of the qualified donation in gross, and an accompanying statement identifying the methods used to determine such values;
  - (B) Whether a subdivision analysis was used in the appraisal;
  - (C) Whether the landowner or related persons own any other property, the value of which is increased as a result of the donation; and
  - (D) That the appraiser is certified pursuant to Chapter 39A of Title 43.

Appraisals received by the Department of Natural Resources shall be forwarded to the State Properties Commission for review. The State Properties Commission shall approve the appraisal amount submitted or recommend a lower amount based on its review and inform the Department of Natural Resources of its determination. The State Properties Commission shall be authorized to promulgate any rules and regulations necessary to administer the provisions of this subsection. Any appraisal deemed to contain a substantial valuation misstatement shall be submitted to the Georgia Real Estate Commission for further investigation and disciplinary action. Upon receipt of the State Properties Commission's determination, the Department of Natural Resources may proceed with the certification process.

(c.2) The Board of Natural Resources shall promulgate any rules and regulations necessary to implement and administer subsections (c) and (c.1) of this Code section. A final determination by the Department of Natural Resources or the State Properties Commission shall be subject to review and appeal under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

(d)(1) In no event shall the total amount of any tax credit under this Code section for a taxable year exceed the taxpayer's income tax liability. In no event shall the total amount of the tax credit allowed to a taxpayer under subsection (b) of this Code section exceed \$250,000.00 with respect to tax liability determined under Code Section 48-7-20 or \$500,000.00 with respect to tax liability determined under Code Section 48-7-21. Any unused tax credit shall be allowed to be carried forward to apply to the taxpayer's succeeding ten years' tax liability. However, the amount in excess of such annual dollar limits shall not be eligible for carryover to the taxpayer's succeeding years' tax liability nor shall such excess amount be claimed by or reallocated to any other taxpayer. No such tax credit shall be allowed the taxpayer against prior years' tax liability.

(2) Only one qualified donation may be made with respect to any real property that was, in the ~~year~~ five years prior to donation, within the same tax parcel of record, except that a subsequent donation may be made by a person who is not a related person with respect to any prior eligible donors of any portion of such tax parcel.

(d.1) Any tax credits under this Code section earned by a taxpayer in the taxable years beginning on or after January 1, 2013, and previously claimed but not used by such taxpayer against such taxpayer's income tax may be transferred or sold in whole or in part by such taxpayer to another Georgia taxpayer, subject to the following conditions:

(1) The transferor may make only a single transfer or sale of tax credits earned in a taxable year; however, the transfer or sale may involve one or more transferees;

~~(1)~~(2) The transferor shall submit to the department a written notification of any transfer or sale of tax credits within 30 days after the transfer or sale of such tax credits. The notification shall include such transferor's tax credit balance prior to transfer, the remaining balance after transfer, all tax identification numbers for each transferee, the date of transfer, the amount transferred, and any other information required by the department;

~~(2)~~(3) Failure to comply with this subsection shall result in the disallowance of the tax credit until the taxpayer is in full compliance;

~~(3)~~(4) ~~In no event shall the amount of the tax credit under this subsection claimed and allowed for a taxable year exceed the transferee's income tax liability.~~ Any unused credit may be carried forward to subsequent taxable years provided that the transfer or sale of this tax credit does not extend the time in which such tax credit can be used. The carry-forward period for tax credit that is transferred or sold shall begin on the date on which the tax credit was originally earned; and

~~(4)~~(5) A transferee shall have only such rights to claim and use the tax credit that were available to the transferor at the time of the transfer. To the extent that such transferor did not have rights to claim and use the tax credit at the time of the transfer, the department shall either disallow the tax credit claimed by the transferee or recapture the tax credit from the transferee. The transferee's recourse is against the transferor.

(e)(1) Whenever:

(A) Any person prepares an appraisal of the value of property and knows, or reasonably should have known, that the appraisal would be used in connection with a return or a claim for refund claiming a tax credit under this Code section; and

(B) The claimed value of the property ~~on a return or claim for refund which is based on such appraisal~~ as submitted to the State Properties Commission results in a substantial valuation misstatement with respect to such property for purposes of claiming a tax credit under this Code section,

then such person shall pay a penalty in the amount determined under paragraph (2) of this subsection.

(2) The amount of the penalty imposed under paragraph (1) of this subsection on any person with respect to an appraisal shall be equal to the lesser of:

(A) The greater of:

(i) Twenty-five percent of the difference between the amount of the tax credit claimed on the taxpayer's return or claim for refund and the amount of the tax credit to which the taxpayer is actually entitled, to the extent the difference is

attributable to the misstatement described in ~~subparagraph (e)(1)(B) of this Code section~~ paragraph (1) of this subsection; or

(ii) ~~One~~ Ten thousand dollars; or

(B) One hundred twenty-five percent of the gross income received by the person described in ~~subparagraph (e)(1)(A) of this Code section~~ paragraph (1) of this subsection for the preparation of the appraisal.

(3) No penalty shall be imposed under paragraph (1) of this subsection if the person establishes to the satisfaction of the commissioner that the value established in the appraisal was more likely than not the proper value.

(4) Except as otherwise provided, the penalty provided by this subsection shall be in addition to any other penalties provided by law. The amount of any penalty under this subsection shall be assessed within three years after the return or claim for refund with respect to which the penalty is assessed was filed, and no proceeding in court without assessment for the collection of such penalty shall be begun after the expiration of such period. Any claim for refund of an overpayment of the penalty assessed under this subsection shall be filed within three years from the time the penalty was paid.

(f) No credit shall be allowed under this Code section with respect to any amount deducted from taxable net income by the taxpayer as a charitable contribution.

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

### SECTION 3-2.

Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by adding a new subsection to Code Section 44-10-3, relating to the creation or alteration of conservation easements, as follows:

"(f) No county, municipality, or consolidated government shall hold a conservation easement unless the encumbered real property lies at least partly within the jurisdictional boundaries of such county, municipality, or consolidated government."

### PART IV

#### SECTION 4-1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising paragraph (73) of Code Section 48-8-3, relating to exemptions from sales and use tax, as follows:

~~"(73)(A) The sale or lease of production equipment or production services for use in this state by a certified film producer or certified film production company for qualified production activities:~~

~~(B) As used in this paragraph, the term:~~

~~(i) 'Film producer' means any person engaged in the business of organizing and supervising qualified production activities.~~

~~(ii) 'Film production company' means any company that employs one or more film producers and whose goal is to engage in film production activity.~~

~~(iii) 'Production equipment' means items purchased or leased for use exclusively in qualified production activities in Georgia, including, but not limited to, cameras, camera supplies, camera accessories, lighting equipment, cables, wires, generators, motion picture film and videotape stock, cranes, booms, dollies, and teleprompters.~~

~~(iv) 'Production services' means services purchased for use exclusively in qualified production activities in Georgia, including, but not limited to, digital or tape editing, film processing, transfers of film to tape or digital format, sound mixing, computer graphics services, special effects services, animation services, and script production.~~

~~(v) 'Qualified production activities' means the production or post production of film or video projects such as feature films, series, pilots, movies for television, commercials, music videos, or sound recordings used in feature films, series, pilots, or movies for television, for which the film producer or film production company will be compensated and which are intended for nation wide commercial distribution.~~

~~(C) Any person making a sale of production equipment or production services to a film producer or film production company as specified in this paragraph shall collect the tax imposed on the sale by this article unless the purchaser furnishes such seller with a certificate issued by the commissioner certifying that the purchaser is entitled to purchase the production equipment or production services without paying the tax. As a condition precedent to the issuance of the certificate, film producers and film production companies shall submit an application to the commissioner for designation as a certified film producer or certified film production company. Such application shall not be valid without prior written approval by the Georgia Film and Videotape Office of the Department of Economic Development Reserved;"~~

## PART V SECTION 5-1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising paragraphs (25), (26), (27), (28), (29), (29.1), (34), (34.3), (35), (37), (49), (64), (77), (79), and (90) of Code Section 48-8-3, relating to exemptions from sales and use tax, as follows:

~~"(25) The sale of seed; fertilizers; insecticides; fungicides; rodenticides; herbicides; defoliants; soil fumigants; plant growth regulating chemicals; desiccants, including, but not limited to, shavings and sawdust from wood, peanut hulls, fuller's earth, straw, and hay; and feed for livestock, fish, or poultry when used either directly in tilling the soil or in animal, fish, or poultry husbandry Reserved;~~

~~(26) The sale to persons engaged primarily in producing farm crops for sale of machinery and equipment which is used exclusively for irrigation of farm crops including, but not limited to, fruit, vegetable, and nut crops Reserved;~~

~~(27) The sale of sugar used as food for honeybees kept for the commercial production of honey, beeswax, and honeybees when the commissioner's prior approval is obtained~~ Reserved;

~~(28) The sale of cattle, hogs, sheep, horses, poultry, or bees when sold for breeding purposes~~ Reserved;

~~(29) The sale of the following types of agricultural machinery:~~

~~(A) Machinery and equipment for use on a farm in the production of poultry and eggs for sale;~~

~~(B) Machinery and equipment used in the hatching and breeding of poultry and the breeding of livestock;~~

~~(C) Machinery and equipment for use on a farm in the production, processing, and storage of fluid milk for sale;~~

~~(D) Machinery and equipment for use on a farm in the production of livestock for sale;~~

~~(E) Machinery and equipment which is used by a producer of poultry, eggs, fluid milk, or livestock for sale for the purpose of harvesting farm crops to be used on the farm by that producer as feed for poultry or livestock;~~

~~(F) Machinery which is used directly in tilling the soil or in animal husbandry when the machinery is incorporated for the first time into a new farm unit engaged in tilling the soil or in animal husbandry in this state;~~

~~(G) Machinery which is used directly in tilling the soil or in animal husbandry when the machinery is incorporated as additional machinery for the first time into an existing farm unit already engaged in tilling the soil or in animal husbandry in this state;~~

~~(H) Machinery which is used directly in tilling the soil or in animal husbandry when the machinery is bought to replace machinery in an existing farm unit already engaged in tilling the soil or in animal husbandry in this state;~~

~~(I) Rubber tired farm tractors and attachments to the tractors which are sold to persons engaged primarily in producing farm crops for sale and which are used exclusively in tilling, planting, cultivating, and harvesting farm crops, and equipment used exclusively in harvesting farm crops or in processing onion crops which are sold to persons engaged primarily in producing farm crops for sale. For the purposes of this subparagraph, the term 'farm crops' includes only those crops which are planted and harvested within a 12 month period; and~~

~~(J) Pecan sprayers, pecan shakers, and other equipment used in harvesting pecans which is sold to persons engaged in the growing, harvesting, and production of pecans~~

Reserved;

~~(29.1) The sale or use of any off road equipment and related attachments which are sold to or used by persons engaged primarily in the growing or harvesting of timber and which are used exclusively in site preparation, planting, cultivating, or harvesting timber. Equipment used in harvesting shall include all off road equipment and related attachments used in every forestry procedure starting with the severing of a tree from~~

~~the ground until and including the point at which the tree or its parts in any form has been loaded in the field in or on a truck or other vehicle for transport to the place of use. Such off road equipment shall include, but not be limited to, skidders, feller bunchers, debarkers, delimiters, chip harvesters, tub-grinders, woods cutters, chippers of all types, loaders of all types, dozers, and motor graders and the related attachments~~  
Reserved;"

~~"(34) The sale of the following types of manufacturing machinery:~~

~~(A) Machinery or equipment which is necessary and integral to the manufacture of tangible personal property when the machinery or equipment is bought to replace or upgrade machinery or equipment in a manufacturing plant presently existing in this state and machinery or equipment components which are purchased to upgrade machinery or equipment which is necessary and integral to the manufacture of tangible personal property in a manufacturing plant;~~

~~(B) Machinery or equipment which is necessary and integral to the manufacture of tangible personal property when the machinery or equipment is used for the first time in a new manufacturing plant located in this state;~~

~~(C) Machinery or equipment which is necessary and integral to the manufacture of tangible personal property when the machinery or equipment is used as additional machinery or equipment for the first time in a manufacturing plant presently existing in this state; and~~

~~(D) Any person making a sale of machinery or equipment for the purpose specified in subparagraph (B) of this paragraph shall collect the tax imposed on the sale by this article unless the purchaser furnishes him with a certificate issued by the commissioner certifying that the purchaser is entitled to purchase the machinery or equipment without paying the tax. As a condition precedent to the issuance of the certificate, the commissioner, at the commissioner's discretion, may require a good and valid bond with a surety company authorized to do business in this state as surety or may require legal securities, in an amount fixed by the commissioner, conditioned upon payment by the purchaser of all taxes due under this article in the event it should be determined that the sale fails to meet the requirements of this subparagraph~~

Reserved;"

~~"(34.3)(A) The sale or use of repair or replacement parts, machinery clothing or replacement machinery clothing, molds or replacement molds, dies or replacement dies, waxes, and tooling or replacement tooling for machinery which is necessary and integral to the manufacture of tangible personal property in a manufacturing plant presently existing in this state.~~

~~(B) The commissioner shall promulgate rules and regulations to implement and administer this paragraph~~

Reserved;"

~~"(35)(A) The sale, use, storage, or consumption of:~~

- ~~(i) Industrial materials for future processing, manufacture, or conversion into articles of tangible personal property for resale when the industrial materials become a component part of the finished product;~~
- ~~(ii) Industrial materials other than machinery and machinery repair parts that are coated upon or impregnated into the product at any stage of its processing, manufacture, or conversion; or~~
- ~~(iii) Materials, containers, labels, sacks, or bags used for packaging tangible personal property for shipment or sale. To qualify for the packaging exemption, the items shall be used solely for packaging and shall not be purchased for reuse;~~
- ~~(B) As used in this paragraph, the term 'industrial materials' does not include natural or artificial gas, oil, gasoline, electricity, solid fuel, ice, or other materials used for heat, light, power, or refrigeration in any phase of the manufacturing, processing, or converting process~~

Reserved;"

~~"(37) The sale of machinery and equipment for use in combating air and water pollution and any industrial material bought for further processing in the manufacture of tangible personal property for sale or any part of the industrial material or by-product thereof which becomes a wasteful product contributing to pollution problems and which is used up in a recycling or burning process. Any person making a sale of machinery and equipment for the purposes specified in this paragraph shall collect a tax imposed on the sale by this article unless the purchaser furnishes the person making the sale with a certificate issued by the commissioner certifying that the purchaser is entitled to purchase the machinery, equipment, or industrial material without paying the tax~~ Reserved;"

~~"(49) Sales of liquefied petroleum gas or other fuel used in a structure in which broilers, pullets, or other poultry are raised~~ Reserved;"

~~"(64) The sale of electricity or other fuel for the operation of an irrigation system which is used on a farm exclusively for the irrigation of crops~~ Reserved;"

~~"(77) Sales of liquefied petroleum gas or other fuel used in a structure in which plants, seedlings, nursery stock, or floral products are raised primarily for the purposes of making sales of such plants, seedlings, nursery stock, or floral products for resale~~ Reserved;"

~~"(79) The sale or use of ice for chilling poultry or vegetables in processing for market and for chilling poultry or vegetables in storage rooms, compartments, or delivery trucks~~ Reserved;"

~~"(90) The sale of electricity to a manufacturer located in this state used directly in the manufacture of a product if the direct cost of such electricity exceeds 50 percent of the cost of all materials, including electricity, used directly in the product~~ Reserved;  
or"

## SECTION 5-2.

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

"48-8-3.2.

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

(1) 'Consumable supplies' means tangible personal property, other than machinery, equipment, and industrial materials, that is consumed or expended during the manufacture of tangible personal property. The term includes, but is not limited to, water treatment chemicals for use in, on, or in conjunction with machinery or equipment and items that are readily disposable. The term excludes packaging supplies and energy.

(2) 'Energy' means natural or artificial gas, oil, gasoline, electricity, solid fuel, wood, waste, ice, steam, water, and other materials necessary and integral for heat, light, power, refrigeration, climate control, processing, or any other use in any phase of the manufacture of tangible personal property. The term excludes energy purchased by a manufacturer that is primarily engaged in producing electricity for resale.

(3) 'Equipment' means tangible personal property, other than machinery, industrial materials, and consumable supplies. The term includes durable devices and apparatuses that are generally designed for long-term continuous or repetitive use. Examples of equipment include, but are not limited to, machinery clothing, cones, cores, pallets, hand tools, tooling, molds, dies, waxes, jigs, patterns, conveyors, safety devices, and pollution control devices. The term includes components and repair or replacement parts. The term excludes real property.

(4) 'Fixtures' means tangible personal property that has been installed or attached to land or to any building thereon and that is intended to remain permanently in its place. A consideration for whether tangible property is a fixture is whether its removal would cause significant damage to such property or to the real property to which it is attached. Fixtures are classified as real property. Examples of fixtures include, but are not limited to, plumbing, lighting fixtures, slabs, and foundations.

(5) 'Industrial materials' means materials for future processing, manufacture, or conversion into articles of tangible personal property for resale when the industrial materials become a component part of the finished product. The term also means materials that are coated upon or impregnated into the product at any stage of its processing, manufacture, or conversion, even though such materials do not remain a component part of the finished product for sale. The term includes raw materials.

(6) 'Local sales and use tax' means any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; and by or pursuant to any article of this chapter.

(7) 'Machinery' means an assemblage of parts that transmits force, motion, and energy one to the other in a predetermined manner to accomplish a specific objective. The term includes a machine and all of its components, including, but not limited to, belts, pulleys, shafts, gauges, gaskets, valves, hoses, pipes, wires, blades, bearings,

operational structures attached to the machine, including stairways and catwalks, or other devices that are required to regulate or control the machine, allow access to the machine, or enhance or alter its productivity or functionality. The term includes repair or replacement parts. The term excludes real property and consumable supplies.

(8) 'Machinery clothing' means felts, screen plates, wires, or any other items used to carry, form, or dry work in process through the manufacture of tangible personal property.

(9) 'Manufacture of tangible personal property,' used synonymously with the term 'manufacturing,' means a manufacturing operation, series of continuous manufacturing operations, or series of integrated manufacturing operations engaged in at a manufacturing plant or among manufacturing plants to change, process, transform, or convert industrial materials by physical or chemical means into articles of tangible personal property for sale, for promotional use, or for further manufacturing that have a different form, configuration, utility, composition, or character. The term includes, but is not limited to, the storage, preparation, or treatment of industrial materials; assembly of finished units of tangible personal property to form a new unit or units of tangible personal property; movement of industrial materials and work in process from one manufacturing operation to another; temporary storage between two points in a continuous manufacturing operation; random and sample testing that occurs at a manufacturing plant; and a packaging operation that occurs at a manufacturing plant.

(10) 'Manufacturer' means a person or business, or a location of a person or business, that is engaged in the manufacture of tangible personal property for sale or further manufacturing. To be considered a manufacturer, the person or business, or the location of a person or business, must be:

(A) Classified as a manufacturer under the 2007 North American Industrial Classification System Sectors 21, 31, 32, or 33, or North American Industrial Classification System industry code 22111 or specific code 511110; or

(B) Generally regarded as being a manufacturer.

Businesses that are primarily engaged in providing personal or professional services or in the operation of retail outlets, generally including, but not limited to, grocery stores, pharmacies, bakeries, or restaurants, are not considered manufacturers.

(11) 'Manufacturing plant' means any facility, site, or other area where a manufacturer engages in the manufacture of tangible personal property.

(12) 'Packaging operation' means bagging, boxing, crating, canning, containerizing, cutting, measuring, weighing, wrapping, labeling, palletizing, or other similar processes necessary to prepare or package manufactured products in a manner suitable for sale or delivery to customers as finished goods or suitable for the transport of work in process at or among manufacturing plants for further manufacturing, and the movement of such finished goods or work in process to a storage or distribution area at a manufacturing plant.

(13) 'Packaging supplies' means materials, including, but not limited to, containers, labels, sacks, boxes, wraps, fillers, cones, cores, pallets, or bags, used in a packaging operation solely for packaging tangible personal property.

(14) 'Real property' means land, any buildings thereon, and any fixtures attached thereto.

(15) 'Repair or replacement part' means a part for any machinery or equipment that is necessary and integral to the manufacture of tangible personal property. Repair or replacement parts must be used to maintain, repair, restore, install, or upgrade such machinery or equipment that is necessary and integral to the manufacture of tangible personal property. Examples of repair and replacement parts may include, but are not limited to, oils, greases, hydraulic fluids, coolants, lubricants, machinery clothing, molds, dies, waxes, jigs, and other interchangeable tooling.

(16) 'Substantial purpose' means the purpose for which an item of tangible personal property is used more than one-third of the time of the total amount of time that the item is in use; alternatively, instead of time, the purpose may be measured in terms of other applicable criteria, including, but not limited to, the number of items produced.

(b) The sale, use, or storage of machinery or equipment which is necessary and integral to the manufacture of tangible personal property and the sale, use, storage, or consumption of industrial materials or packaging supplies shall be exempt from all sales and use taxation.

(c)(1) Except as otherwise provided in paragraph (4) of this subsection, the sale, use, storage, or consumption of energy which is necessary and integral to the manufacture of tangible personal property at a manufacturing plant in this state shall be exempt from all sales and use taxation except for the sales and use tax for educational purposes levied pursuant to Part 2 of Article 3 of this chapter and Article VIII, Section VI, Paragraph IV of the Constitution and except for local sales and use taxes for educational purposes authorized by or pursuant to local constitutional amendment. This exemption shall be phased in over a four-year period as follows:

(A) For the period commencing January 1, 2013, and concluding at the last moment of December 31, 2013, such sale, use, storage, or consumption of energy shall be exempt from an amount equal to 25 percent of the total amount of state sales and use tax that would be collected at the rate of 4 percent on such sale, use, storage, or consumption of energy and shall be exempt from an amount equal to 25 percent of the total amount of each local sales and use tax that would be collected at the rate of 1 percent on such sale, use, storage, or consumption of energy;

(B) For the period commencing January 1, 2014, and concluding at the last moment of December 31, 2014, such sale, use, storage, or consumption of energy shall be exempt from an amount equal to 50 percent of the total amount of state sales and use tax that would be collected at the rate of 4 percent on such sale, use, storage, or consumption of energy and shall be exempt from an amount equal to 50 percent of the total amount of each local sales and use tax that would be collected at the rate of 1 percent on such sale, use, storage, or consumption of energy;

(C) For the period commencing January 1, 2015, and concluding at the last moment of December 31, 2015, such sale, use, storage, or consumption of energy shall be exempt from an amount equal to 75 percent of the total amount of state sales and use tax that would be collected at the rate of 4 percent on such sale, use, storage, or consumption of energy and shall be exempt from an amount equal to 75 percent of the total amount of each local sales and use tax that would be collected at the rate of 1 percent on such sale, use, storage, or consumption of energy; and

(D) On or after January 1, 2016, such sale, use, storage, or consumption of energy shall be fully exempt from such sales and use taxation.

(2)(A) Any person making a sale of items qualifying for exemption under paragraph (1) of this subsection shall be relieved of the burden of proving such qualification if the person making the sale receives a certificate from the purchaser certifying that the purchase is exempt under this subsection.

(B) Any person who qualifies for the exemption under paragraph (1) of this subsection shall notify and certify to the person making the qualified sale that such exemption is applicable to the sale.

(3) With respect to services which are regularly billed on a monthly basis, the exemption under paragraph (1) of this subsection shall become effective with respect to and the exemption shall apply to services billed on or after the effective date of this Code section.

(4) If a competitive project of regional significance under paragraph (92) of Code Section 48-8-3 is started in a county or municipality, it shall not be subject to the phase-in period contained in subparagraphs (A), (B), and (C) of paragraph (1) of this subsection, but such project shall receive the full exemption provided for in subparagraph (D) of paragraph (1) of this subsection notwithstanding the January 1, 2016, limitation in that subparagraph.

(d) The exemptions under this Code section shall be applied as follows:

(1) The manufacture of tangible personal property commences as industrial materials are received at a manufacturing plant and concludes once the packaging operation is complete and the tangible personal property is ready for sale or shipment, regardless of whether the manufacture of tangible personal property occurs at one or more separate manufacturing plants;

(2) For machinery or equipment that has multiple purposes, some purposes necessary and integral to the manufacture of tangible personal property and some purposes not necessary and integral to the manufacture of tangible personal property, the substantial purpose of such machinery or equipment will prevail for purposes of determining the eligibility for exemption. The commissioner shall consider any reasonable methodology for measuring the substantial purpose of machinery or equipment for which the substantial purpose is not readily identifiable;

(3) For leased machinery or equipment that did not qualify for an exemption at the date of lease inception and subsequently qualifies for the exemption under this Code section, the exemption shall apply to all lease payments made subsequent to such qualification;

(4) Miscellaneous spare parts for which the ultimate use of the spare parts is unknown at the time of purchase are eligible for the exemption as repair or replacement parts. However, use tax must be accrued and remitted if spare parts are withdrawn from the inventory of spare parts and used for any purpose other than to maintain, repair, restore, install, or upgrade machinery or equipment that is necessary and integral to the manufacture of tangible personal property; and

(5) Energy necessary and integral to the manufacture of tangible personal property includes energy used to operate machinery or equipment, to create conditions necessary for the manufacture of tangible personal property, or to perform an actual part of the manufacture of tangible personal property; energy used in administrative or other ancillary activities that are located and performed at the manufacturing plant so long as such activities primarily benefit such manufacture of tangible personal property; energy used in related operations that convey, transport, handle, or store raw materials or finished goods at the manufacturing plant; energy used for heating, cooling, ventilation, illumination, fire safety or prevention, and personal comfort and convenience of the manufacturer's employees at the manufacturing plant; and energy used for any other purpose at a manufacturing plant.

(e) Examples that qualify as necessary and integral to the manufacture of tangible personal property include, but are not limited to:

(1) Machinery or equipment used to convey or transport industrial materials, work in process, consumable supplies, or packaging materials at or among manufacturing plants or to convey and transport finished goods to a distribution or storage point at the manufacturing plant. Specific examples may include, but are not limited to, forklifts, conveyors, cranes, hoists, and pallet jacks;

(2) Machinery or equipment used to gather, arrange, sort, mix, measure, blend, heat, cool, clean, or otherwise treat, prepare, or store industrial materials for further manufacturing;

(3) Machinery or equipment used to control, regulate, heat, cool, or produce energy for other machinery or equipment that is necessary and integral to the manufacture of tangible personal property. Specific examples may include, but are not limited to, boilers, chillers, condensers, water towers, dehumidifiers, humidifiers, heat exchangers, generators, transformers, motor control centers, solar panels, air dryers, and air compressors;

(4) Testing and quality control machinery or equipment located at a manufacturing plant used to test the quality of industrial materials, work in process, or finished goods;

(5) Starters, switches, circuit breakers, transformers, wiring, piping, and other electrical components, including associated cable trays, conduit, and insulation, located between a motor control center and exempt machinery or equipment or between separate units of exempt machinery or equipment;

(6) Machinery or equipment used to maintain, clean, or repair exempt machinery or equipment;

- (7) Machinery or equipment used to provide safety for the employees working at a manufacturing plant, including, but not limited to, safety machinery and equipment required by federal or state law, gloves, ear plugs, face masks, protective eyewear, hard hats or helmets, or breathing apparatuses, regardless of whether the items would otherwise be considered consumable supplies;
- (8) Machinery or equipment used to condition air or water to produce conditions necessary for the manufacture of tangible personal property, including pollution control machinery or equipment and water treatment systems;
- (9) Pollution control, sanitizing, sterilizing, or recycling machinery or equipment;
- (10) Industrial materials bought for further processing in the manufacture of tangible personal property for sale or further processing or any part of the industrial material or by-product thereof which becomes a wasteful product contributing to pollution problems and which is used up in a recycling or burning process;
- (11) Machinery or equipment used in quarrying and mining activities, including blasting, extraction, and crushing; and
- (12) Energy used at a manufacturing plant."

### SECTION 5-3.

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

"48-8-3.3.

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

(1)(A) 'Agricultural machinery and equipment' means machinery and equipment used in the production of agricultural products, including, but not limited to, machinery and equipment used in the production of poultry and eggs for sale, including, but not limited to, equipment used in the cleaning or maintenance of poultry houses and the surrounding premises; in hatching and breeding of poultry and the breeding of livestock and equine; in production, processing, and storage of fluid milk for sale; in drying, ripening, cooking, further processing, or storage of agricultural products, including, but not limited to, orchard crops; in production of livestock and equine for sale; by a producer of poultry, eggs, fluid milk, equine, or livestock for sale; for the purpose of harvesting agricultural products to be used on the farm by that producer as feed for poultry, equine, or livestock; directly in tilling the soil or in animal husbandry when the machinery is incorporated for the first time or as additional machinery for the first time into a new or an existing farm unit engaged in tilling the soil or in animal husbandry in this state; directly in tilling the soil or in animal husbandry when the machinery is bought to replace machinery in an existing farm unit already engaged in tilling the soil or in animal husbandry in this state; machinery and equipment used exclusively for irrigation of agricultural products, including, but not limited to, fruit, vegetable, and nut crops; and machinery and equipment used to cool agricultural products in storage facilities.

(B) 'Agricultural machinery and equipment' also means farm tractors and attachments to the tractors; off-road vehicles used primarily in the production of nursery and horticultural crops; self-propelled fertilizer or chemical application

equipment sold to persons engaged primarily in producing agricultural products for sale and which are used exclusively in tilling, planting, cultivating, and harvesting agricultural products, including, but not limited to, growing, harvesting, or processing onions, peaches, blackberries, blueberries, or other orchard crops, nursery, and other horticultural crops; devices and containers used in the transport and shipment of agricultural products; aircraft exclusively used for spraying agricultural crops; pecan sprayers, pecan shakers, and other equipment used in harvesting pecans sold to persons engaged in the growing, harvesting, and production of pecans; and off-road equipment and related attachments which are sold to or used by persons engaged primarily in the growing or harvesting of timber and which are used exclusively in site preparation, planting, cultivating, or harvesting timber. Equipment used in harvesting shall include all off-road equipment and related attachments used in every forestry procedure starting with the severing of a tree from the ground until and including the point at which the tree or its parts in any form has been loaded in the field in or on a truck or other vehicle for transport to the place of use. Such off-road equipment shall include, but not be limited to, skidders, feller bunchers, debarkers, delimiters, chip harvesters, tub-grinders, woods cutters, chippers of all types, loaders of all types, dozers, mid-motor graders, and the related attachments; grain bins and attachments to grain bins; any repair, replacement, or component parts installed on agricultural machinery and equipment; trailers used to transport agricultural products; all-terrain vehicles and multipassenger rough-terrain vehicles; and any other off-road vehicles used directly and principally in the production of agricultural or horticultural products.

(2) 'Agricultural operations' or 'agricultural products' means raising, growing, harvesting, or storing of crops; feeding, breeding, or managing livestock, equine, or poultry; producing or storing feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep, equine, and rabbits, or for use in the production of poultry, including, but not limited to, chickens, hens, ratites, and turkeys; producing plants, trees, Christmas trees, fowl, equine, or animals; or the production of aquacultural, horticultural, viticultural, silvicultural, grass sod, dairy, livestock, poultry, egg, and apiarian products. Agricultural products are considered grown in this state if such products are grown, produced, or processed in this state, whether or not such products are composed of constituent products grown or produced outside this state.

(3) 'Agricultural production inputs' means seed; seedlings; plants grown from seed, cuttings, or liners; fertilizers; insecticides; livestock and poultry feeds, drugs, and instruments used for the administration of such drugs; fencing products and materials used to produce agricultural products; fungicides; rodenticides; herbicides; defoliants; soil fumigants; plant growth regulating chemicals; desiccants, including, but not limited to, shavings and sawdust from wood, peanut hulls, fuller's earth, straw, and hay; feed for animals, including, but not limited to, livestock, fish, equine, hogs, or poultry; sugar used as food for honeybees kept for the commercial production of honey, beeswax, and honeybees; cattle, hogs, sheep, equine, poultry, or bees when

sold for breeding purposes; ice or other refrigerants, including, but not limited to, nitrogen, carbon dioxide, ammonia, and propylene glycol used in the processing for market or the chilling of agricultural products in storage facilities, rooms, compartments, or delivery trucks; materials, containers, crates, boxes, labels, sacks, bags, or bottles used for packaging agricultural products when the product is either sold in the containers, sacks, bags, or bottles directly to the consumer or when such use is incidental to the sale of the product for resale; and containers, plastic, canvas, and other fabrics used in the care and raising of agricultural products or canvas used in covering feed bins, silos, greenhouses, and other similar storage structures.

(4) 'Energy used in agriculture' means fuels used for agricultural purposes, including, but not limited to, off-road diesel, propane, butane, electricity, natural gas, wood, wood products, or wood by-products; liquefied petroleum gas or other fuel used in structures in which broilers, pullets, or other poultry are raised, in which swine are raised, in which dairy animals are raised or milked or where dairy products are stored on a farm, in which agricultural products are stored, and in which plants, seedlings, nursery stock, or floral products are raised primarily for the purposes of making sales of such plants, seedlings, nursery stock, or floral products for resale; electricity or other fuel for the operation of an irrigation system which is used on a farm exclusively for the irrigation of agricultural products; and electricity or other fuel used in the drying, cooking, or further processing of raw agricultural products, including, but not limited to, food processing of raw agricultural products.

(5) 'Qualified agriculture producer' includes producers of agricultural products who meet one of the following criteria:

(A) The person or entity is the owner or lessee of agricultural land or other real property from which \$2,500.00 or more of agricultural products were produced and sold during the year, including payments from government sources;

(B) The person or entity is in the business of providing for-hire custom agricultural services, including, but not limited to, plowing, planting, harvesting, growing, animal husbandry or the maintenance of livestock, raising or substantially modifying agricultural products, or the maintenance of agricultural land from which \$2,500.00 or more of such services were provided during the year;

(C) The person or entity is the owner of land that qualifies for taxation under the qualifications of bona fide conservation use property as defined in Code Section 48-5-7.4 or qualifies for taxation under the provisions of the Georgia Forest Land Protection Act as defined in Code Section 48-5-7.7;

(D) The person or entity is in the business of producing long-term agricultural products from which there might not be annual income, including, but not limited to, timber, pulpwood, orchard crops, pecans, and horticultural or other multiyear agricultural or farm products. Applicants must demonstrate that sufficient volumes of such long-term agricultural products will be produced which have the capacity to generate at least \$2,500.00 in sales annually in the future; or

(E) The person or entity must establish, to the satisfaction of the Commissioner of Agriculture, that the person or entity is actively engaged in the production of

agricultural products and has or will have created sufficient volumes to generate at least \$2,500.00 in sales annually.

(b) The sales and use taxes levied or imposed by this article shall not apply to sales to, or use by, a qualified agriculture producer of agricultural production inputs, energy used in agriculture, and agricultural machinery and equipment.

(c) The Commissioner of Agriculture, at his or her discretion, may use one or both of the following criteria as a tool to determine eligibility under this Code section:

(1) Business activity on IRS schedule F (Profit or Loss from Farming); or

(2) Farm rental activity on IRS form 4835 (Farm Rental Income and Expenses) or schedule E (Supplemental Income and Loss).

(d) Qualified agricultural producers that meet the criteria provided for in paragraph (5) of subsection (a) of this Code section must apply to the Commissioner of Agriculture to request an agricultural sales and use tax exemption certificate that contains an exemption number. To facilitate the use of the exemption certificate, a wallet-sized card containing that same information shall also be issued by the Commissioner of Agriculture.

(e) The Commissioner of Agriculture is authorized to promulgate rules and regulations governing the issuance of agricultural exemption certificates and the administration of this Code section. The Commissioner of Agriculture is authorized to establish an oversight board and direct staff and is authorized to charge annual fees of not less than \$15.00 nor more than \$25.00 per year in accordance with Code Section 2-1-5, but in no event shall the total amount of the proceeds from such fees exceed the cost of administering this Code section."

#### **SECTION 5-4.**

Said title is further amended by adding a new article at the end of Chapter 13, relating to specific, business, and occupation taxes, to read as follows:

#### "ARTICLE 6

48-13-110.

As used in this article, the term:

(1) 'Dealer' has the same meaning as in Code Section 48-8-2.

(2) 'Energy' has the same meaning as in Code Section 48-8-3.2.

(3) 'Local sales and use tax' means any of the following:

(A) The county special purpose local option sales and use tax under Part 1 of Article 3 of Chapter 8 of this title;

(B) The joint county and municipal sales and use tax under Article 2 of Chapter 8 of this title;

(C) The homestead option sales and use tax under Article 2A of Chapter 8 of this title;

(D) The tax levied for purposes of a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Ga. L.

1964, p. 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the Constitution; and the laws enacted pursuant to such constitutional amendment; or

(E) The water and sewer projects and costs tax pursuant to Article 4 of Chapter 8 of this title.

(4) 'Purchaser' means any person who purchases energy and who would have been liable for sales and use tax on such energy but for the exemption provided for in Code Section 48-8-3.2.

48-13-111.

Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution, there are created within this state 159 special districts. One such district shall exist within the geographical boundaries of each county, and the territory of each district shall include all of the territory within the county except territory located within the boundaries of any municipality that imposes an excise tax on energy under this article.

48-13-112.

(a)(1) Within the territorial limits of the special district located within the county, each county in this state may levy and collect an excise tax upon the sale or use of energy when such sale or use would have constituted a taxable event for purposes of sales and use tax under Article 1 of Chapter 8 of this title but for the exemption in Code Section 48-8-3.2.

(2) The governing authority of each municipality in this state may, subject to the conditions of Code Section 48-13-115, levy and collect an excise tax upon the sale or use of energy when such sale or use would have constituted a taxable event for purposes of sales and use tax under Article 1 of Chapter 8 of this title but for the exemption in Code Section 48-8-3.2.

(3) The excise tax levied pursuant to this article shall be phased in over a four-year period as follows:

(A) For the period commencing January 1, 2013, and concluding at the last moment of December 31, 2013, such excise tax shall be at a rate equivalent to 25 percent of the total amount of local sales and use tax in effect in such special district that would be collected on the sale, use, storage, or consumption of energy but for the exemption in Code Section 48-8-3.2;

(B) For the period commencing January 1, 2014, and concluding at the last moment of December 31, 2014, such excise tax shall be at a rate equivalent to 50 percent of the total amount of local sales and use tax in effect in such special district that would be collected on the sale, use, storage, or consumption of energy but for the exemption in Code Section 48-8-3.2;

(C) For the period commencing January 1, 2015, and concluding at the last moment of December 31, 2015, such excise tax shall be at a rate equivalent to 75 percent of the total amount of local sales and use tax in effect in such special district that

would be collected on the sale, use, storage, or consumption of energy but for the exemption in Code Section 48-8-3.2; and

(D) On or after January 1, 2016, such excise tax shall be at a rate equivalent to 100 percent of the total amount of local sales and use tax in effect in such special district that would be collected on the sale, use, storage, or consumption of energy but for the exemption in Code Section 48-8-3.2.

(b) Any county or municipality which imposes the excise tax under this article during the phase-in period provided for in this Code section shall levy such excise tax at the amount provided for under the applicable year of the phase in. Any county or municipality which imposes such excise tax on or after January 1, 2016, shall impose it at the rate specified under subparagraph (a)(3)(D) of this Code section.

(c) The excise tax levied pursuant to this article shall be imposed only at the time that sales and use tax on the sale or use of such energy would have been due and payable under Code Section 48-8-30 but for the exemption in Code Section 48-8-3.2. The excise tax shall be due and payable in the same manner as would be otherwise required under Article 1 of Chapter 8 of this title except as otherwise provided under this article. The excise tax shall be a debt of the purchaser of energy until it is paid and shall be recoverable at law in the same manner as authorized for the recovery of other debts. The dealer collecting the excise tax shall remit the excise tax to the governing authority imposing the excise tax. Every dealer subject to an excise tax levied as provided in this article shall be liable for the excise tax at the applicable rate on the charges actually collected or the amount of excise taxes collected from the purchasers, whichever is greater.

(d) A county or municipality levying an excise tax as provided in this subsection shall only levy such excise tax initially by ordinance and at the equivalent rate as determined under paragraph (3) of subsection (a) of this Code section. Following such initial imposition, on or after January 1, 2016, the rate of the tax under this article shall be controlled by the maximum amount of local sales and use tax in effect in the special district, but in no event more than 2 percent; however, this 2 percent limitation shall not apply in a municipality that levies a water and sewer projects and costs tax pursuant to Article 4 of Chapter 8 of this title, in which case there shall be a 3 percent limitation. In the event the total rate of local sales and use taxes in effect in the special district decreases from 2 percent to 1 percent, the rate of the excise tax under this article shall likewise be reduced at the same time such local sales and use tax rate reduction becomes effective. In the event the total rate of local sales and use taxes in effect in the special district increases from 1 percent to 2 percent, the rate of the excise tax under this article shall likewise be increased at the same time such local sales and use tax rate increase becomes effective.

(e) An excise tax under this article shall not be levied or collected by a county or municipality outside the territorial limits of the special district located within the county.

48-13-113.

Prior to the adoption of the ordinance levying an excise tax under this article, the county governing authority within a special district shall meet and confer with each of the municipalities within the special district. Any county that desires to have an excise tax under this article levied within the special district shall deliver or mail a written notice to the mayor or chief elected official in each municipality located within the special district. If the governing authority of such county does not deliver or mail such notice within 30 days of the date of the written request of the mayor or chief elected official of a municipality within the special district, then such mayor or chief elected official shall deliver or mail a written notice to the mayor or chief elected official in each municipality located within the special district and to the county governing authority. Such notice shall contain the date, time, place, and purpose of a meeting at which the governing authorities of the county and of each municipality are to discuss whether or not the excise tax should levied be within the special district. The notice shall be delivered or mailed at least ten days prior to the date of the meeting. The meeting shall be held at least 30 days prior to the adoption of any ordinance levying an excise tax under this article.

48-13-114.

(a)(1) Following the meeting required under Code Section 48-13-113, the governing authority of the county within the special district shall enter into an intergovernmental agreement with the governing authority of each municipality wishing to participate in such excise tax that provides for the distribution of the proceeds as provided in subsection (c) of this Code section. Following the execution of such agreement, the governing authority of such county shall be authorized to adopt an ordinance levying the excise tax.

(2) If a municipality elects not to participate in such excise tax by not signing such agreement, then such municipality shall not receive any proceeds from the excise tax. In such event, any proportionate share that would have been distributed to such municipality under an applicable local sales and use tax as provided in subsection (c) of this Code section shall instead be distributed to the general fund of the county.

(b) The excise tax proceeds shall be allocated and distributed by the county governing authority at the end of each calendar month. Of such excise tax proceeds, an amount equal to 1 percent of the proceeds collected by the county shall be paid into the general fund of the county to defray the costs of collection and administration. The remainder of the proceeds shall be distributed in accordance with the intergovernmental agreement as provided in subsection (c) of this Code section.

(c) The excise tax proceeds shall be allocated and distributed by the county governing authority within 30 days following the end of each calendar month in the manner provided in this subsection. Such proceeds shall not be subject to any use or expenditure requirements provided for under any of the local sales and use taxes but shall be authorized to be expended in the same manner as otherwise would have been

required under such local sales and use taxes or may be expended for any lawful purpose. Of such excise tax proceeds:

(1) If two such local sales and use taxes are in effect in the special district, an amount equal to one-half of the proceeds of the excise tax shall be distributed to the county general fund and the general fund of each participating municipality located in such county according to the same proportionate share as specified under the distribution provisions of the first local sales and use tax and an amount equal to one-half of the proceeds of the excise tax shall be distributed to the county general fund and the general fund of each participating municipality located in such county according to the same proportionate share as specified under the distribution provisions of the second local sales and use tax; or

(2) If only one such local sales and use tax is in effect in the special district, then the proceeds of the excise tax shall be distributed to the county general fund and the general fund of each participating municipality located in such county according to the same proportionate share as specified under the distribution provisions of the local sales and use tax.

48-13-115.

Following the meeting required under Code Section 48-13-113, if the governing authority of the county within the special district refuses to enter into an intergovernmental agreement with the governing authority of each municipality wishing to participate in such excise tax during the period commencing on January 1, 2013, and concluding on December 31, 2013, then the governing authority of each municipality wishing to levy the excise tax shall be authorized to adopt an ordinance levying the excise tax within the corporate limits of such municipality. If a county elects not to participate in such excise tax by not signing such agreement, then the county shall not receive any proceeds from the excise tax. The proceeds of such excise tax shall be deposited in the general fund of each municipality. If a county determines, subsequent to December 31, 2013, to commence proceedings for the imposition of the excise tax under this article, then proceedings for such imposition shall commence in the same manner as otherwise provided under Code Section 48-13-113. In that event, the excise tax levied by such municipality shall cease on the day immediately prior to the day the new tax levied by the county commences. If such municipality elects not to participate, its current excise tax under this article shall still terminate on the date specified in this Code section and it shall not receive any proceeds under the county levy.

48-13-116.

(a)(1) An excise tax imposed under this article shall become effective on the first day of the next succeeding calendar quarter which begins more than 80 days after the adoption date of the ordinance.

(2) If services are regularly billed on a monthly basis, however, the excise tax shall become effective with respect to and the tax shall apply to services billed on or after the effective date specified in paragraph (1) of this subsection.

(b) The excise tax shall cease to be imposed on the first day of the next succeeding calendar quarter which begins more than 80 days after the adoption date of an ordinance terminating the excise tax.

(c) At any time no more than a single 2 percent excise tax under this article may be imposed within a special district or a municipality.

(d) Following the termination of an excise tax under this article, the governing authority of a county within a special district or the mayor or chief elected official of a municipality in the special district in which an excise tax authorized by this article is in effect may initiate proceedings for the reimposition of a tax under this article in the same manner as provided in this article for initial imposition of such tax.

48-13-117.

The manner of payment and collection of the excise tax and all other procedures related to the tax, including, but not limited to, periodic auditing of dealers collecting and remitting the excise tax under this article, shall be as provided by each county and municipality electing to exercise the powers conferred by this article.

48-13-118.

As a part of the audit report required under Code Section 36-81-7, the auditor shall include, in a separate schedule, a report of the revenues pertaining to the excise tax under this article."

#### **SECTION 5-5.**

Said title is further amended by revising paragraphs (90) and (91) and enacting a new paragraph in Code Section 48-8-3, relating to exemptions from sales and use tax, as follows:

"(90) The sale of electricity to a manufacturer located in this state used directly in the manufacture of a product if the direct cost of such electricity exceeds 50 percent of the cost of all materials, including electricity, used directly in the product; ~~or~~

(91) The sale of prewritten software which has been delivered to the purchaser electronically or by means of load and leave; or

(92)(A) For the period commencing January 1, 2012, until June 30, 2014, sales of tangible personal property used for and in the construction of a competitive project 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, 2014.

(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 5-6.

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

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

(B)(i) For the period of time beginning July 1, 2011, and ending June 30, 2012, the sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall be exempt from state sales and use tax until the aggregate state sales and use tax liability of the taxpayer during such period with respect to jet fuel exceeds \$20 million, computed as if the exemption provided in this division was not in effect during such period. Thereafter during such period, the exemption provided by this division shall not apply to the sale or use of jet fuel to or by the qualifying airline. For purposes of this division, the terms 'qualifying airline' and 'qualifying airport' shall have the same meanings as those terms were defined under the prior provisions of this paragraph as it existed immediately prior to July 1, 2012.

(ii) ~~For the period of time beginning July 1, 2012, and ending June 30, 2013, the sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall be exempt from 1 percent of the 4 percent state sales and use tax until the aggregate state sales and use tax liability of the taxpayer during such period with respect to jet fuel exceeds \$10 million, computed as if the exemption provided in this division was not in effect during such period. Thereafter during such period, the sale or use of jet fuel to or by the qualifying airline shall be subject to state sales and use tax.~~

~~(iii) The exemptions provided in divisions (i) and (ii) of this subparagraph shall not apply to any purchases of jet fuel occurring on or after July 1, 2013.~~

(C) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall be exempt at all times from the sales or use tax levied and imposed as authorized pursuant to Part 1 of Article 3 of this chapter. For purposes of this subparagraph, a 'qualifying airport' shall mean any airport in the state that has had more than 750,000 takeoffs and landings during a calendar year; and a 'qualifying airline,' in addition to the requirements of subparagraph (E) of this paragraph, shall mean, for the 12 month period immediately preceding the applicable period

specified in division (i) of subparagraph (B) of this paragraph had, or would have had in the absence of any exemption during such 12 month period, state sales and use tax liability on jet fuel of more than \$15 million.

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

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

~~(ii) For the 12 month period immediately preceding the applicable period specified in division (i) or (ii) of subparagraph (B) of this paragraph had, or would have had in the absence of any exemption during such 12 month period, state sales and use tax liability on jet fuel of more than \$15 million.~~

~~(F) For purposes of this paragraph and paragraph (2) of subsection (d) of Code Section 48-8-241, a 'qualifying airport' shall mean any airport in the state that has had more than 750,000 takeoffs and landings during a calendar year. For purposes of division (ii) of subparagraph (B) of this paragraph and paragraph (2) of subsection (d) of Code Section 48-8-241, the term 'qualifying airport' means a certificated air carrier airport in Georgia.~~

(G) The commissioner shall adopt rules and regulations to carry out the provisions of this paragraph;."

#### SECTION 5-7.

Title 2 of the Official Code of Georgia Annotated, relating to agriculture, is amended by revising Code Section 2-1-5, relating to certain agricultural annual license fees, as follows:

"2-1-5.

(a) An individual conducting business as a grain dealer, commercial feed dealer, and grain warehouseman shall pay an annual license fee in an amount not less than \$1,500.00 nor more than \$3,000.00. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

(b) A qualified agriculture producer, as defined in Code Section 48-8-3.3, shall pay an annual license fee in an amount not less than \$15.00 nor more than \$25.00, but in no event shall the total amount of the proceeds from such fees exceed the cost of administering Code Section 48-8-3.3."

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

Part 1 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use taxes, is amended by revising paragraph (8) of Code Section 48-8-2, relating to definitions regarding the state sales and use tax, as follows:

"(8) 'Dealer' means every person who:

(A) Has sold at retail, used, consumed, distributed, or stored for use or consumption in this state tangible personal property and who cannot prove that the tax levied by this article has been paid on the sale at retail or on the use, consumption, distribution, or storage of the tangible personal property;

(B) Imports or causes to be imported tangible personal property from any state or foreign country for sale at retail, or for use, consumption, distribution, or storage for use or consumption in this state;

(C) Is the lessee or renter of tangible personal property and who pays to the owner of the property a consideration for the use or possession of the property in this state without acquiring title to the property;

(D) Leases or rents tangible personal property for a consideration, permitting the use or possession of the property in this state without transferring title to the property;

(E) Maintains or ~~has~~ utilizes within this state, ~~indirectly or by a subsidiary,~~ an office, distribution center, salesroom or sales office, warehouse, service enterprise, or any other place of business, whether owned by such person or any other person, other than a common carrier acting in its capacity as such;

(F) Manufactures or produces tangible personal property for sale at retail or for use, consumption, distribution, or storage for use or consumption in this state;

(G) Sells at retail, offers for sale at retail, or has in his possession for sale at retail, or for use, consumption, distribution, or storage for use or consumption in this state tangible personal property;

(H) Solicits business by an agent, employee, representative, or any other person;

(I) Engages in the regular or systematic solicitation of a consumer market in this state, unless the dealer's only activity in this state is:

(i) Advertising or solicitation by:

(I) Direct mail, catalogs, periodicals, or advertising fliers;

(II) Means of print, radio, or television media; or

(III) Telephone, computer, the Internet, cable, microwave, or other communication system; ~~or~~

(ii) The delivery of tangible personal property within this state solely by common carrier or United States mail; or

(iii) To engage in convention and trade show activities as described in Section 513(d)(3)(A) of the Internal Revenue Code, so long as such activities are the dealer's sole physical presence in this state and the dealer, including any of its representatives, agents, salespersons, canvassers, independent contractors, or solicitors, does not engage in those convention and trade show activities for more

than five days, in whole or in part, in this state during any 12 month period and did not derive more than \$100,000.00 of net income from those activities in this state during the prior calendar year. A retailer engaging in convention and trade show activities, as described in Section 513(d)(3)(A) of the Internal Revenue Code, is a retailer engaged in business in this state and liable for collection of the applicable sales or use tax with respect to any sale of tangible personal property occurring at the convention and trade show activities and with respect to any sale of tangible personal property made pursuant to an order taken at or during those convention and trade show activities.

The exceptions provided in divisions ~~(i) and (ii)~~ (i), (ii), and (iii) of this subparagraph shall not apply to any requirements under Code Section 48-8-14;

(J) Is an affiliate that sells at retail, offers for sale at retail in this state, or engages in the regular or systematic solicitation of a consumer market in this state through a related dealer located in this state unless:

(i) The in-state dealer to which the affiliate is related does not engage in any of the following activities on behalf of the affiliate:

- (I) Advertising;
- (II) Marketing;
- (III) Sales; or
- (IV) Other services; and

(ii) The in-state dealer to which the affiliate is related accepts the return of tangible personal property sold by the affiliate and also accepts the return of tangible personal property sold by any person or dealer that is not an affiliate on the same terms and conditions as an affiliate's return;

As used in this subparagraph, the term 'affiliate' means any person that is related directly or indirectly through one or more intermediaries, controls, is controlled by, is under common control with, or is subject to the control of a dealer described in subparagraphs (A) through (I) of this paragraph or in this subparagraph;

(K)(i) Makes sales of tangible personal property or services that are taxable under this chapter if a related member, as defined in Code Section 48-7-28.3, other than a common carrier acting in its capacity as such, that has substantial nexus in this state:

- (I) Sells a similar line of products as the person and does so under the same or a similar business name; or
- (II) Uses trademarks, service marks, or trade names in this state that are the same or substantially similar to those used by the person.

(ii) The presumption that a person described in this subparagraph qualifies as a dealer in this state may be rebutted by showing that the person does not have a physical presence in this state and that any in-state activities conducted on its behalf are not significantly associated with the person's ability to establish and maintain a market in this state;

(L)(i) Makes sales of tangible personal property or services that are taxable under this chapter if any other person, other than a common carrier acting in its capacity as such, who has a substantial nexus in this state:

(I) Delivers, installs, assembles, or performs maintenance services for the person's customers within this state;

(II) Facilitates the person's delivery of property to customers in this state by allowing the person's customers to pick up property sold by the person at an office, distribution facility, warehouse, storage place, or similar place of business maintained by the person in this state; or

(III) Conducts any other activities in this state that are significantly associated with the person's ability to establish and maintain a market in this state for the person's sales.

(ii) The presumption that a person described in this subparagraph qualifies as a dealer in this state may be rebutted by showing that the person does not have a physical presence in this state and that any in-state activities conducted on its behalf are not significantly associated with the person's ability to establish and maintain a market in this state;

(M)(i) Enters into an agreement with one or more other persons who are residents of this state under which the resident, for a commission or other consideration, based on completed sales, directly or indirectly refers potential customers, whether by a link on an Internet website, an in-person oral presentation, telemarketing, or otherwise, to the person, if the cumulative gross receipts from sales by the person to customers in this state who are referred to the person by all residents with this type of an agreement with the person is in excess of \$50,000.00 during the preceding 12 months.

(ii) The presumption that a person described in this subparagraph is a dealer in this state may be rebutted by submitting proof that the residents with whom the person has an agreement did not engage in any activity within this state that was significantly associated with the person's ability to establish or maintain the person's market in the state during the preceding 12 months. Such proof may consist of sworn written statements from all of the residents with whom the person has an agreement stating that they did not engage in any solicitation in this state on behalf of the person during the preceding year, provided that such statements were provided and obtained in good faith. This subparagraph shall take effect 90 days after the effective date of this Act and shall apply to sales made, uses occurring, and services rendered on or after the effective date of this subparagraph without regard to the date the person and the resident entered into the agreement described in this subparagraph;

(N) Notwithstanding any of the provisions contained in this paragraph, with respect to a person that is not a resident or domiciliary of Georgia, that does not engage in any other business or activity in Georgia, and that has contracted with a commercial printer for printing to be conducted in Georgia, such person shall not be deemed a 'dealer' in Georgia merely because such person:

- (i) Owns tangible or intangible property which is located at the Georgia premises of a commercial printer for use by such printer in performing services for the owner;
  - (ii) Makes sales and distributions of printed material produced at and shipped or distributed from the Georgia premises of the commercial printer;
  - (iii) Performs activities of any kind at the Georgia premises of the commercial printer which are directly related to the services provided by the commercial printer; or
  - (iv) Has printing, including any printing related activities, and distribution related activities performed by the commercial printer in Georgia for or on its behalf,
- nor shall such person, absent any contact with Georgia other than with or through the use of the commercial printer or the use of the United States Postal Service or a common carrier, have an obligation to collect sales or use tax from any of its customers located in Georgia based upon the activities described in divisions (i) through (iv) of this subparagraph. In no event described in this subparagraph shall such person be considered to have a fixed place of business in Georgia at either the commercial printer's premises or at any place where the commercial printer performs services on behalf of that person;
- (O) Any ruling, agreement, or contract, whether written or oral and whether express or implied, between a person and this state's executive branch or any other state agency or department stating, agreeing, or ruling that such person is not a dealer required to collect sales and use tax in this state despite the presence of a warehouse, distribution center, or fulfillment center in this state that is owned or operated by the person or a related member shall be null and void unless it is specifically approved by a majority vote of each body of the General Assembly. For purposes of this subparagraph, the term 'related member' has the same meaning as in Code Section 48-7-28.3;
- ~~(L)~~(P) Each dealer shall collect the tax imposed by this article from the purchaser, lessee, or renter, as applicable, and no action seeking either legal or equitable relief on a sale, lease, rental, or other transaction may be had in this state by the dealer unless the dealer has fully complied with this article; or
- ~~(M)~~(Q) The commissioner shall promulgate such rules and regulations necessary to administer this paragraph, including other such information, applications, forms, or statements as the commissioner may reasonably require."

#### SECTION 6-2.

Said part is further amended by revising paragraphs (75) and (82) of Code Section 48-8-3, relating to exemptions from sales and use taxes, as follows:

- "(75)(A) The sale of any covered item. The exemption provided by this paragraph shall apply only to sales occurring during ~~a period commencing periods:~~
- (i) Commencing at 12:01 A.M. on ~~July 30, 2009~~ August 10, 2012, and concluding at 12:00 Midnight on ~~August 2, 2009~~ August 11, 2012; and

(ii) Commencing at 12:01 A.M. on August 9, 2013, and concluding at 12:00 Midnight on August 10, 2013.

(B) As used in this paragraph, the term 'covered item' shall mean:

(i) Articles of clothing and footwear with a sales price of \$100.00 or less per article of clothing or pair of footwear, excluding accessories such as jewelry, handbags, umbrellas, eyewear, watches, and watchbands;

(ii) A single purchase, with a sales price ~~\$1,500.00~~ of \$1,000.00 or less, of personal computers and personal computer related accessories purchased for noncommercial home or personal use, including personal computer base units and keyboards, personal digital assistants, handheld computers, monitors, other peripheral devices, modems for Internet and network access, and nonrecreational software, whether or not they are to be utilized in association with the personal computer base unit. Computer and computer related accessories shall not include furniture and any systems, devices, software, or peripherals designed or intended primarily for recreational use; and

(iii) Noncommercial purchases of general school supplies to be utilized in the classroom or in classroom related activities, such as homework, up to a sales price of \$20.00 per item including pens, pencils, notebooks, paper, book bags, calculators, dictionaries, thesauruses, and children's books and books listed on approved school reading lists for pre-kindergarten through twelfth grade.

(C) The exemption provided by this paragraph shall not apply to rentals, sales in a theme park, entertainment complex, public lodging establishment, restaurant, or airport or to purchases for trade, business, or resale.

(D) The commissioner shall promulgate any rules and regulations necessary to implement and administer this paragraph including but not be limited to a list of those articles and items qualifying for the exemption pursuant to this paragraph;"

"(82)(A) Purchase of energy efficient products or water efficient products with a sales price of \$1,500.00 or less per product purchased for noncommercial home or personal use. The exemption provided by this paragraph shall apply only to sales occurring during ~~a period commencing~~ periods:

(i) Commencing at 12:01 A.M. on ~~October 1, 2009~~ October 5, 2012, and concluding at 12:00 Midnight on ~~October 4, 2009~~ October 7, 2012; and

(ii) Commencing at 12:01 A.M. on October 4, 2013, and concluding at 12:00 Midnight on October 6, 2013.

(B) As used in this paragraph, the term:

(i) 'Energy efficient product' means any energy efficient product for noncommercial home or personal use consisting of any dishwasher, clothes washer, air conditioner, ceiling fan, fluorescent light bulb, dehumidifier, programmable thermostat, refrigerator, door, or window which has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each such agency's energy saving efficiency requirements or which have been designated as meeting or exceeding such requirements under each such agency's Energy Star program.

- (ii) 'Water efficient product' means any product used for the conservation or efficient use of water which has been designated by the United States Environmental Protection Agency as meeting or exceeding such agency's water saving efficiency requirements or which has been designated as meeting or exceeding such requirements under such agency's Water Sense program.
- (C) The exemption provided for in subparagraph (A) of this paragraph shall not apply to purchases of energy efficient products or water efficient products purchased for trade, business, or resale.
- (D) The commissioner shall promulgate any rules and regulations necessary to implement and administer this paragraph;"

**PART VII**  
**SECTION 7-1.**

- (a) This part, paragraph (4) of subsection (c) of Code Section 48-8-3.2 contained in Section 5-2, and Section 6-2 of this Act shall become effective upon approval by the Governor or upon becoming law without such approval.
- (b) Section 5-5 of this Act shall become effective on January 1, 2012.
- (c) Section 6-1 of this Act shall become effective on October 1, 2012.
- (d) Part IV and Section 5-6 of this Act shall become effective on July 1, 2012.
- (e) Parts II and III of this Act shall become effective on January 1, 2013, and shall be applicable to all taxable years beginning on or after January 1, 2013.
- (f) Part I of this Act shall become effective March 1, 2013.
- (g) The remaining portions of this Act shall become effective on January 1, 2013.
- (h) Tax, penalty, and interest liabilities and refund eligibility for prior taxable years shall not be affected by the passage of this Act and shall continue to be governed by the provisions of general law as it existed immediately prior to the effective date of the relevant portion of this Act.
- (i) This Act shall not abate any prosecution, punishment, penalty, administrative proceedings or remedies, or civil action related to any violation of law committed prior to the effective date of the relevant portion of this Act.

**SECTION 7-2.**

In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full force and effect as if the section, subsection, sentence, clause, or phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof. The General Assembly declares that it would have passed the remaining parts of this Act if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

**SECTION 7-3.**

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

The Speaker Pro Tem assumed the Chair.

The Committee substitute was adopted.

The Speaker assumed the Chair.

Representative Hill of the 21st was excused from voting on HB 386.

The report of the Committee, which was favorable to the passage of the Bill, by substitute, was agreed to.

On the passage of the Bill, by substitute, the roll call was ordered and the vote was as follows:

Abdul-Salaam	Y Davis	E Heckstall	Y Mayo	Y Setzler
Y Abrams	Y Dawkins-Haigler	Y Hembree	Y McBrayer	Y Shaw
Y Allison	Y Dempsey	Y Henson	Y McCall	Y Sheldon
Y Amerson	Y Dickerson	Y Hightower	Y McKillip	Y Sims, B
Y Anderson	Y Dickey	Hill	Y Meadows	Y Sims, C
Y Ashe	Y Dickson	N Holcomb	Y Mitchell	N Smith, E
Y Atwood	Y Dobbs	Y Holmes	Y Morgan	Y Smith, K
Y Baker	Y Dollar	Y Holt	Y Morris	Y Smith, L
Y Battles	Y Drenner	Y Horne	Mosby	Y Smith, R
E Beasley-Teague	Y Dudgeon	Y Houston	Y Murphy	Y Smith, T
Y Bell	Y Dukes	Y Howard	Neal, J	Y Smyre
Y Benfield	Y Dunahoo	Y Hudson	E Neal, Y	Y Spencer
Y Benton	Y Dutton	N Hugley	Y Nimmer	Y Stephens, M
Beverly	Y Ehrhart	Y Jackson	Y Nix	Y Stephens, R
Y Black	Y England	Y Jacobs	Y Oliver	N Stephenson
Y Braddock	Y Epps, C	Y James	Y O'Neal	Y Talton
Y Brockway	Y Epps, J	Y Jasperse	Y Pak	Y Tankersley
Y Brooks	Y Evans	Y Jerguson	Y Parent	Y Taylor, D
Y Bruce	Y Floyd	Y Johnson	Y Parrish	N Taylor, R
Y Bryant	Y Fludd	Y Jones, J	Y Parsons	E Taylor, T
Y Buckner	Y Frazier	Y Jones, S	Y Peake	Y Teasley
Y Burns	Y Fullerton	E Jordan	Y Powell, A	E Thomas
Y Byrd	Y Gardner	Y Kaiser	Y Powell, J	Y Waites
Y Carson	Y Geisinger	N Kendrick	Y Pruett	Y Watson
Y Carter	Y Golick	Y Kidd	Y Purcell	Y Welch
Y Casas	Y Gordon	Y Kirby	Y Ramsey	Y Weldon
Y Channell	Y Greene	Y Knight	N Randall	N Wilkerson
Y Cheokas	Y Hamilton	Y Lane	Y Reece	Y Wilkinson
Y Clark, J	Y Hanner	Y Lindsey	Y Rice	Willard
Y Clark, V	Y Harbin	Y Long	E Riley	Y Williams, A
Y Coleman	Y Harden, B	Y Maddox, B	Y Roberts	Y Williams, C
Y Collins	Y Harden, M	Y Maddox, G	Y Rogers, C	E Williams, E
Y Cooke	Y Harrell	Y Manning	Y Rogers, T	Y Williams, R
Y Coomer	Y Hatchett	Y Marin	Y Rynders	Y Williamson
Y Cooper	Y Hatfield	Martin	Y Scott, M	Y Yates
Y Crawford	Y Heard	Y Maxwell	N Scott, S	Ralston, Speaker

On the passage of the Bill, by substitute, the ayes were 155, nays 9.

The Bill, having received the requisite constitutional majority, was passed, by substitute.

Representative Taylor of the 55th stated that he inadvertently voted "nay" on the preceding roll call. He wished to be recorded as voting "aye" thereon.

Due to a mechanical malfunction, the vote of Representative Neal of the 1st was not recorded on the preceding roll call. He wished to be recorded as voting "aye" thereon.

Representative Beverly of the 139th stated that he had been called from the floor of the House during the preceding roll call. He wished to be recorded as voting "aye" thereon.

Representative Taylor of the 79th was excused on the preceding roll call. He wished to be recorded as voting "aye" thereon.

Representative Channell of the 116th asked unanimous consent that HB 386 be immediately transmitted to the Senate.

It was so ordered.

Representative Williams of the 4th moved that the House do now adjourn until 10:00 o'clock, tomorrow morning, and the motion prevailed.

The Speaker announced the House adjourned until 10:00 o'clock, tomorrow morning.