COUNTY AGENDA REQUEST

Department:	Administration	Presenter(s):	County Administrator Steve Rapson
Meeting Date:	Thursday, February 28, 2013	Type of Request:	Consent

Wording for the Agenda:

Approval of staff's recommendation to enter into an Intergovernmental Agreement with the Fayette County School District, the City of Peachtree City, the City of Fayetteville, the Town of Tyrone and the Town of Brooks to establish the methodology for collecting and distributing ad valorem taxes and the new Title Ad Valorem Tax (TAVT); along with other procedures.

Background/History/Details:

In 2012, the Georgia General Assembly passed an omnibus tax bill, HB 386 (see Attachment 1; Page 2), which, among other provisions, changed the tax collection / distribution procedures for motor vehicles in the State of Georgia.

Beginning March 1, 2013, sales tax will no longer be charged on the sale of new and used motor vehicles. Instead, sales taxes applicable to both dealership and private party purchases will be replaced with a new Title Ad Valorem Tax (TAVT).

Current vehicle owners will continue to pay ad valorem taxes under the previously enacted methodology for assessing motor vehicles.

Tax Commissioner throughout Georgia will be required to collect both ad valorem taxes and the TAVT, and to make distributions to the governmental entities authorized to receive such tax distributions in accordance with provisions of HB 386 and other applicable laws of the State of Georgia.

This request is to enter into an Intergovernmental Agreement (see Attachment 2; Page 58) between Fayette County, Georgia and five (5) governmental entitles located within Fayette County who are authorized to receive tax distributions.

What action are you seeking from the Board of Commissioners?

Approval of staff's recommendation to enter into an Intergovernmental Agreement with the Fayette County School District, the City of Peachtree City, the City of Fayetteville, the Town of Tyrone and the Town of Brooks to establish the methodology for collecting and distributing ad valorem taxes and the new Title Ad Valorem Tax (TAVT); along with other procedures.

If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years?	No	If so, when?	
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Not Applicable	Reviewed by Legal	
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval			

Staff Notes:

House Bill 386 (AS PASSED HOUSE AND SENATE)

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 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.~~

~~(c)~~(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:

97 ″48-5-441.1.
98 In accordance with Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution,
99 motor vehicles subject to the provisions of Code Section 48-5B-1 shall be classified as a
100 separate and distinct class of tangible property for the purposes of ad valorem taxation.″

101 **SECTION 1-4.**

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

103 ″CHAPTER 5B

104 48-5B-1.
105 (a) As used in this Code section, the term:
106 (1) 'Fair market value of the motor vehicle' means:
107 (A) The average of the current fair market value and the current wholesale value of a
108 motor vehicle for a vehicle listed in the current motor vehicle ad valorem assessment
109 manual utilized by the state revenue commissioner in determining taxable value of a
110 motor vehicle under Code Section 48-5-442;
111 (B) For a used motor vehicle which is not so listed in such current motor vehicle ad
112 valorem assessment manual, the value from the bill of sale or the value from a reputable
113 used car market guide designated by the commissioner, whichever is greater; or
114 (C) The fair market value determined by the state revenue commissioner from the bill
115 of sale of a new motor vehicle for which there is no value under subparagraph (A) of
116 this paragraph, less any rebate and before any reduction for the trade-in value of another
117 motor vehicle.
118 (2) 'Immediate family member' means spouse, parent, child, sibling, grandparent, or
119 grandchild.
120 (3) 'Loaner vehicle' means a motor vehicle owned by a dealer which is withdrawn
121 temporarily from dealer inventory for exclusive use as a courtesy vehicle loaned at no
122 charge for a period not to exceed 30 days within a calendar year to any one customer
123 whose motor vehicle is being serviced by such dealer.
124 (4) 'Rental charge' means the total value received by a rental motor vehicle concern for
125 the rental or lease for 31 or fewer consecutive days of a rental motor vehicle, including
126 the total cash and nonmonetary consideration for the rental or lease, including, but not
127 limited to, charges based on time or mileage and charges for insurance coverage or
128 collision damage waiver but excluding all charges for motor fuel taxes or sales and use
129 taxes.

130 (5) 'Rental motor vehicle' means a motor vehicle designed to carry ten or fewer
131 passengers and used primarily for the transportation of persons that is rented or leased
132 without a driver.
133 (6) 'Rental motor vehicle concern' means a person or legal entity which owns or leases
134 five or more rental motor vehicles and which regularly rents or leases such vehicles to the
135 public for value.
136 (7) 'Trade-in value' means the value of the motor vehicle as stated in the bill of sale for
137 a vehicle which has been traded in to the dealer in a transaction involving the purchase
138 of another vehicle from the dealer.
139 (b)(1)(A) Except as otherwise provided in this subsection, any motor vehicle for which
140 a title is issued in this state on or after March 1, 2013, shall be exempt from sales and
141 use taxes to the extent provided under paragraph (92) of Code Section 48-8-3 and shall
142 not be subject to the ad valorem tax as otherwise required under Chapter 5 of Title 48.
143 Any such motor vehicle shall be titled as otherwise required under Title 40 but shall be
144 subject to a state title fee and a local title fee which shall be alternative ad valorem taxes
145 as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.
146 (B)(i) As used in this subparagraph, the term:
147 (II) 'Local base amount' means $1 billion.
148 (II) 'Local current collection amount' means the total amount of motor vehicle local
149 ad valorem tax proceeds collected under this Code section and Chapter 5 of this title
150 during the calendar year which immediately precedes the tax year in which the title
151 ad valorem tax adjustments are required to be made under this subparagraph.
152 (III) 'Local target collection amount' means an amount equal to the local base
153 amount added to the product of 2 percent of the local base amount multiplied by the
154 number of years since 2012 with a maximum amount of $1.2 billion.
155 (IV) 'State base amount' means $535 million.
156 (V) 'State current collection amount' means the total amount of motor vehicle state
157 ad valorem tax proceeds collected under this Code section and Chapter 5 of this title
158 during the calendar year which immediately precedes the tax year in which the state
159 and local title ad valorem tax rate is to be reviewed for adjustment under
160 division (xiv) of this subparagraph. Notwithstanding the other provisions of this
161 subdivision to the contrary, the term 'state current collection amount' for the 2014
162 calendar year for the purposes of the 2015 review under division (xiv) of this
163 subparagraph shall be adjusted so that such amount is equal to the amount of motor
164 vehicle state ad valorem tax proceeds that would have been collected under this
165 Code section in 2014 if the combined state and local title ad valorem tax rate was
166 7 percent of the fair market value of the motor vehicle less any trade-in value plus

167 the total amount of motor vehicle state ad valorem tax proceeds collected under
168 Chapter 5 of this title during 2014.
169 (VI) 'State target collection amount' means an amount equal to the state base
170 amount added to the product of 2 percent of the state base amount multiplied by the
171 number of years since 2012.
172 (ii) The combined state and local title ad valorem tax shall be at a rate equal to:
173 (I) For the period commencing March 1, 2013, through December 31, 2013, 6.5
174 percent of the fair market value of the motor vehicle less any trade-in value;
175 (II) For the 2014 tax year, 6.75 percent of the fair market value of the motor vehicle
176 less any trade-in value; and
177 (III) Except as provided in division (xiv) of this subparagraph, for the 2015 and
178 subsequent tax years, 7 percent of the fair market value of the motor vehicle less
179 any trade-in value.
180 (iii) For the period commencing March 1, 2013, through December 31, 2013, the
181 state title ad valorem tax shall be at a rate equal to 57 percent of the tax rate specified
182 in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate
183 equal to 43 percent of the tax rate specified in division (ii) of this subparagraph.
184 (iv) For the 2014 tax year, the state title ad valorem tax shall be at a rate equal to 55
185 percent of the tax rate specified in division (ii) of this subparagraph, and the local title
186 ad valorem tax shall be at a rate equal to 45 percent of the tax rate specified in
187 division (ii) of this subparagraph.
188 (v) For the 2015 tax year, the state title ad valorem tax shall be at a rate equal to 55
189 percent of the tax rate specified in division (ii) of this subparagraph, and the local title
190 ad valorem tax shall be at a rate equal to 45 percent of the tax rate specified in
191 division (ii) of this subparagraph.
192 (vi) For the 2016 tax year, except as otherwise provided in division (xiii) of this
193 subparagraph, the state title ad valorem tax shall be at a rate equal to 53.5 percent of
194 the tax rate specified in division (ii) of this subparagraph, and the local title ad
195 valorem tax shall be at a rate equal to 46.5 percent of the tax rate specified in
196 division (ii) of this subparagraph.
197 (vii) For the 2017 tax year, except as otherwise provided in divisions (xiii) and (xiv)
198 of this subparagraph, the state title ad valorem tax shall be at a rate equal to 44 percent
199 of the tax rate specified in division (ii) of this subparagraph, and the local title ad
200 valorem tax shall be at a rate equal to 56 percent of the tax rate specified in division
201 (ii) of this subparagraph.
202 (viii) For the 2018 tax year, except as otherwise provided in division (xiii) of this
203 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

241 the combined state and local title ad valorem tax rate at the rate specified in
242 division (ii) of this subparagraph. If the local current collection amount is more than
243 1 percent less than the local target collection amount, then the local title ad valorem
244 tax rate for such tax year shall be increased automatically by operation of this division
245 by such percentage amount as may be necessary so that, if such rate had been in effect
246 for the calendar year under review, the local current collection amount would have
247 produced an amount equal to the local target collection amount, and the state title ad
248 valorem tax rate for such tax year shall be reduced by an equal amount to maintain the
249 combined state and local title ad valorem tax rate at the rate specified in division (ii)
250 of this subparagraph. In the event of an adjustment of such ad valorem tax rates, by
251 not later than January 31 of such tax year, the state revenue commissioner shall notify
252 the tax commissioner of each county in this state of the adjusted rate amounts. The
253 effective date of such adjusted rate amounts shall be January 1 of such tax year.
254 (xiv) In tax years 2015, 2018, and 2022, by not later than July 1 of each such tax
255 year, the state revenue commissioner shall determine the state target collection
256 amount and the state current collection amount for the preceding calendar year. If
257 such state current collection amount is greater than, equal to, or within 1 percent of
258 the state target collection amount after making the adjustment, if any, required in
259 division (xiii) of this subparagraph, then the combined state and local title ad valorem
260 tax rate provided in division (ii) of this subparagraph shall remain at the rate specified
261 in such division. If the state current collection amount is more than 1 percent less
262 than the state target collection amount after making the adjustment, if any, required
263 by division (xiii) of this subparagraph, then the combined state and local title ad
264 valorem tax rate provided in division (ii) of this subparagraph shall be increased
265 automatically by operation of this division by such percentage amount as may be
266 necessary so that, if such rate had been in effect for the calendar year under review,
267 the state current collection amount would have produced an amount equal to the state
268 target collection amount, and the state title ad valorem tax rate and the local title ad
269 valorem tax rate for the tax year in which such increase in the combined state and
270 local title ad valorem tax rate shall become effective shall be adjusted from the rates
271 specified in this subparagraph or division (xiii) of this subparagraph for such tax year
272 such that the proceeds from such increase in the combined state and local title ad
273 valorem tax rate shall be allocated in full to the state. In the event of an adjustment
274 of the combined state and local title ad valorem tax rate, by not later than August 31
275 of such tax year, the state revenue commissioner shall notify the tax commissioner of
276 each county in this state of the adjusted combined state and local title ad valorem tax
277 rate for the next calendar year. The effective date of such adjusted combined state

278 and local title ad valorem tax rate shall be January 1 of the next calendar year.
279 Notwithstanding the provisions of this division, the combined state and local title ad
280 valorem tax rate shall not exceed 9 percent.
281 (xv) The state revenue commissioner shall promulgate such rules and regulations as
282 may be necessary and appropriate to implement and administer this Code section,
283 including, but not limited to, rules and regulations regarding appropriate public
284 notification of any changes in rate amounts and the effective date of such changes and
285 rules and regulations regarding appropriate enforcement and compliance procedures
286 and methods for the implementation and operation of this Code section.
287 (C) The application for title and the state and local title ad valorem tax fees provided
288 for in subparagraph (A) of this paragraph shall be paid to the tag agent in the county in
289 which the purchaser registers such motor vehicle and shall be paid at the time the
290 purchaser applies for a title and registers such motor vehicle. A dealer of new or used
291 motor vehicles may accept such application for title and state and local title ad valorem
292 tax fees on behalf of the purchaser of a new or used motor vehicle for the purpose of
293 delivering such title application and state and local title ad valorem tax fees to the
294 county tag agent to obtain a tag and title for the purchaser of such motor vehicle.
295 (D) There shall be a penalty imposed on any person who, in the determination of the
296 commissioner, falsifies any information in any bill of sale used for purposes of
297 determining the fair market value of the motor vehicle. Such penalty shall not exceed
298 $2,500.00 as a state penalty and shall not exceed $2,500.00 as a local penalty as
299 determined by the commissioner. Such determination shall be made within 60 days of
300 the commissioner receiving information of a possible violation of this paragraph.
301 (E) A dealer of new or used motor vehicles that accepts an application for title and
302 state and local title ad valorem tax fees from a purchaser of a new or used motor vehicle
303 and does not transmit such application for title and state and local title ad valorem tax
304 fees to the county tag agent within 10 days following the date of purchase shall be
305 liable to the county tag agent for an amount equal to 5 percent of the amount of such
306 state and local title ad valorem tax fees. An additional 5 percent penalty shall be
307 imposed for each subsequent month the payment is not transmitted.
308 (F) A dealer of new or used motor vehicles that accepts an application for title and state
309 and local title ad valorem tax fees from a purchaser of a new or used motor vehicle and
310 converts such fees to his or her own use shall be guilty of theft by conversion and, upon
311 conviction, shall be punished as provided in Code Section 16-8-12.
312 (2) A person or entity acquiring a salvage title pursuant to subsection (b) of Code
313 Section 40-3-36 shall not be subject to the fee specified in paragraph (1) of this
314 subsection but shall be subject to a state title ad valorem tax fee in an amount equal to 1

315 percent of the fair market value of the motor vehicle. Such state title ad valorem tax fee
316 shall be an alternative ad valorem tax as authorized by Article VII, Section I,
317 Paragraph III(b)(3) of the Georgia Constitution.
318 (c)(1) The amount of proceeds collected by tag agents each month as state and local title
319 ad valorem tax fees, state salvage title ad valorem tax fees, administrative fees, penalties,
320 and interest pursuant to subsection (b) of this Code section shall be allocated and
321 disbursed as provided in this subsection.
322 (2) For the 2013 tax year and in each subsequent tax year, the amount of such funds shall
323 be disbursed within 30 days following the end of each calendar month as follows:
324 (A) State title ad valorem tax fees, state salvage title ad valorem tax fees,
325 administrative fees, penalties, and interest shall be remitted to the state revenue
326 commissioner who shall deposit such proceeds in the general fund of the state less an
327 amount to be retained by the tag agent not to exceed 1 percent of the total amount
328 otherwise required to be remitted under this subparagraph to defray the cost of
329 administration. Such retained amount shall be remitted to the collecting county's
330 general fund. Failure by the tag agent to disburse within such 30 day period shall result
331 in a forfeiture of such administrative fee plus interest on such amount at the rate
332 specified in Code Section 48-2-40; and
333 (B) Local title ad valorem tax fees, administrative fees, penalties, and interest shall be
334 designated as local government ad valorem tax funds. The tag agent shall then
335 distribute the proceeds as specified in paragraph (3) of this subsection.
336 (3) The local title ad valorem tax fee proceeds required under this subsection shall be
337 distributed as follows:
338 (A) The tag agent of the county shall within 30 days following the end of each calendar
339 month allocate and distribute to the county governing authority and to municipal
340 governing authorities, the board of education of the county school district, and the
341 board of education of any independent school district located in such county an amount
342 of those proceeds necessary to offset any reduction in ad valorem tax on motor vehicles
343 collected under Chapter 5 of Title 48 in the taxing jurisdiction of each governing
344 authority and school district from the amount of ad valorem taxes on motor vehicles
345 collected under Chapter 5 of Title 48 in each such governing authority and school
346 district during the same calendar month of 2012. This reduction shall be calculated by
347 subtracting the amount of ad valorem tax on motor vehicles collected under Chapter 5
348 of Title 48 in each such taxing jurisdiction from the amount of ad valorem tax on motor
349 vehicles collected under Chapter 5 of Title 48 in that taxing jurisdiction in the same
350 calendar month of 2012. In the event that the local title ad valorem tax fee proceeds are
351 insufficient to fully offset such reduction in ad valorem taxes on motor vehicles, the tag

352 agent shall allocate a proportionate amount of the proceeds to each governing authority
353 and to the board of education of each such school district, and any remaining shortfall
354 shall be paid from the following month's local title ad valorem tax fee proceeds. In the
355 event that a shortfall remains, the tag agent shall continue to first allocate local title ad
356 valorem tax fee proceeds to offset such shortfalls until the shortfall has been fully
357 repaid; and
358 (B) Of the proceeds remaining following the allocation and distribution under
359 subparagraph (A) of this paragraph, the tag agent shall allocate and distribute to the
360 county governing authority and to municipal governing authorities, the board of
361 education of the county school district, and the board of education of any independent
362 school district located in such county the remaining amount of those proceeds in the
363 manner provided in this subparagraph. Such proceeds shall be deposited in the general
364 fund of such governing authority or board of education and shall not be subject to any
365 use or expenditure requirements provided for under any of the following described local
366 sales and use taxes but shall be authorized to be expended in the same manner as
367 authorized for the ad valorem tax revenues on motor vehicles under Chapter 5 of
368 Title 48 which would otherwise have been collected for such governing authority or
369 board of education. Of such remaining proceeds:
370 (i) An amount equal to one-third of such proceeds shall be distributed to the board
371 of education of the county school district and the board of education of each
372 independent school district located in such county in the same manner as required for
373 any local sales and use tax for educational purposes levied pursuant to Part 2 of
374 Article 3 of Chapter 8 of Title 48 currently in effect. If such tax is not currently in
375 effect, such proceeds shall be distributed to such board or boards of education in the
376 same manner as if such tax were in effect;
377 (ii)(I) Except as otherwise provided in this division, an amount equal to one-third
378 of such proceeds shall be distributed to the governing authority of the county and
379 the governing authority of each qualified municipality located in such county in the
380 same manner as specified under the distribution certificate for the joint county and
381 municipal sales and use tax under Article 2 of Chapter 8 of Title 48 currently in
382 effect.
383 (II) If such tax were never in effect, such proceeds shall be distributed to the
384 governing authority of the county and the governing authority of each qualified
385 municipality located in such county on a pro rata basis according to the ratio of the
386 population that each such municipality bears to the population of the entire county.
387 (III) If such tax is currently in effect as well as a local option sales and use tax for
388 educational purposes levied pursuant to a local constitutional amendment, an

389 amount equal to one-third of such proceeds shall be distributed in the same manner
390 as required under subdivision (I) of this division and an amount equal to one-third
391 of such proceeds shall be distributed to the board of education of the county school
392 district.
393 (IV) If such tax is not currently in effect and a local option sales and use tax for
394 educational purposes levied pursuant to a local constitutional amendment is
395 currently in effect, such proceeds shall be distributed to the board of education of
396 the county school district and the board of education of any independent school
397 district in the same manner as required under that local constitutional amendment.
398 (V) If such tax is not currently in effect and a homestead option sales and use tax
399 under Article 2A of Chapter 8 of Title 48 is in effect, such proceeds shall be
400 distributed to the governing authority of the county, each qualified municipality, and
401 each existing municipality in the same proportion as otherwise required under Code
402 Section 48-8-104; and
403 (iii)(I) An amount equal to one-third of such proceeds shall be distributed to the
404 governing authority of the county and the governing authority of each qualified
405 municipality located in such county in the same manner as specified under an
406 intergovernmental agreement or as otherwise required under the county special
407 purpose local option sales and use tax under Part 1 of Article 3 of Chapter 8 of
408 Title 48 currently in effect; provided, however, that this subdivision shall not apply
409 if subdivision (III) of division (ii) of this subparagraph is applicable.
410 (II) If such tax were in effect but expired and is not currently in effect, such
411 proceeds shall be distributed to the governing authority of the county and the
412 governing authority of each qualified municipality located in such county in the
413 same manner as if such tax were still in effect according to the intergovernmental
414 agreement or as otherwise required under the county special purpose local sales and
415 use tax under Part 1 of Article 3 of Chapter 8 of Title 48 for the 12 month period
416 commencing at the expiration of such tax. If such tax is not renewed prior to the
417 expiration of such 12 month period, such amount shall be distributed in accordance
418 with subdivision (I) of division (ii) of this subparagraph; provided, however, that if
419 a tax under Article 2 of Chapter 8 of Title 48 is not in effect, such amount shall be
420 distributed in accordance with subdivision (II) of division (ii) of this subparagraph.
421 (III) If such tax is not currently in effect in a county in which a tax is levied for
422 purposes of a metropolitan area system of public transportation, as authorized by the
423 amendment to the Constitution set out at Ga. L. 1964, p. 1008; the continuation of
424 such amendment under Article XI, Section I, Paragraph IV(d) of the Constitution;
425 and the laws enacted pursuant to such constitutional amendment, such proceeds

426 shall be distributed to the governing body of the authority created by local Act to
427 operate such metropolitan area system of public transportation.
428 (IV) If such tax were never in effect, such proceeds shall be distributed in the same
429 manner as specified under the distribution certificate for the joint county and
430 municipal sales and use tax under Article 2 of Chapter 8 of Title 48 currently in
431 effect; provided, however, that if such tax under such article is not in effect, such
432 proceeds shall be distributed to the governing authority of the county and the
433 governing authority of each qualified municipality located in such county on a pro
434 rata basis according to the ratio of the population that each such municipality bears
435 to the population of the entire county.
436 (d)(1)(A) Upon the death of an owner of a motor vehicle which has not become subject
437 to paragraph (1) of subsection (b) of this Code section, the immediate family member
438 or immediate family members of such owner who receive such motor vehicle pursuant
439 to a will or under the rules of inheritance shall, subsequent to the transfer of title of such
440 motor vehicle, continue to be subject to ad valorem tax under Chapter 5 of Title 48 and
441 shall not be subject to the state and local title ad valorem tax fees provided for in
442 paragraph (1) of subsection (b) of this Code section unless the immediate family
443 member or immediate family members make an affirmative written election to become
444 subject to paragraph (1) of subsection (b) of this Code section. In the event of such
445 election, such transfer shall be subject to the state and local title ad valorem tax fees
446 provided for in paragraph (1) of subsection (b) of this Code section.
447 (B) Upon the death of an owner of a motor vehicle which has become subject to
448 paragraph (1) of subsection (b) of this Code section, the immediate family member or
449 immediate family members of such owner who receive such motor vehicle pursuant to
450 a will or under the rules of inheritance shall be subject to a state title ad valorem tax fee
451 in an amount equal to one-quarter of 1 percent of the fair market value of the motor
452 vehicle and a local title ad valorem tax fee in an amount equal to one-quarter of 1
453 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees
454 shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph
455 III(b)(3) of the Georgia Constitution.
456 (2)(A) Upon the transfer from an immediate family member of a motor vehicle which
457 has not become subject to paragraph (1) of subsection (b) of this Code section, the
458 immediate family member or immediate family members who receive such motor
459 vehicle shall, subsequent to the transfer of title of such motor vehicle, continue to be
460 subject to ad valorem tax under Chapter 5 of Title 48 and shall not be subject to the
461 state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b)
462 of this Code section unless the immediate family member or immediate family

463 members make an affirmative written election to become subject to paragraph (1) of
464 subsection (b) of this Code section. In the event of such election, such transfer shall be
465 subject to the state and local title ad valorem tax fees provided for in paragraph (1) of
466 subsection (b) of this Code section.
467 (B) Upon the transfer from an immediate family member of a motor vehicle which has
468 become subject to paragraph (1) of subsection (b) of this Code section, the immediate
469 family member who receives such motor vehicle shall transfer title of such motor
470 vehicle to such recipient family member and shall be subject to a state title ad valorem
471 tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the
472 motor vehicle and a local title ad valorem tax fee in an amount equal to one-quarter of
473 1 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees
474 shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph
475 III(b)(3) of the Georgia Constitution.
476 (C) Any title transfer under this paragraph shall be accompanied by an affidavit of the
477 transferor and transferee that such persons are immediate family members to one
478 another. There shall be a penalty imposed on any person who, in the determination of
479 the state revenue commissioner, falsifies any material information in such affidavit.
480 Such penalty shall not exceed $2,500.00 as a state penalty and shall not exceed
481 $2,500.00 as a local penalty as determined by the state revenue commissioner. Such
482 determination shall be made within 60 days of the state revenue commissioner
483 receiving information of a possible violation of this paragraph.
484 (3) Any individual who:
485 (A) Is required by law to register a motor vehicle or motor vehicles in this state which
486 were registered in the state in which such person formerly resided; and
487 (B) Is required to file an application for a certificate of title under Code
488 Section 40-3-21 or 40-3-32
489 shall only be required to pay state and local title ad valorem tax fees in the amount of 50
490 percent of the amount which would otherwise be due and payable under this subsection
491 at the time of filing the application for a certificate of title, and the remaining 50 percent
492 shall be paid within 12 months.
493 (4) The state and local title ad valorem tax fees provided for under this Code section
494 shall not apply to corrected titles, replacement titles under Code Section 40-3-31, or titles
495 reissued to the same owner pursuant to Code Sections 40-3-50 through 40-3-56.
496 (5) Any motor vehicle subject to state and local title ad valorem tax fees under
497 paragraph (1) of subsection (b) of this Code section shall continue to be subject to the
498 title, license plate, revalidation decal, and registration requirements and applicable fees
499 as otherwise provided in Title 40 in the same manner as motor vehicles which are not

500 subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b)
501 of this Code section.
502 (6) Motor vehicles owned or leased by or to the state or any county, consolidated
503 government, municipality, county or independent school district, or other government
504 entity in this state shall not be subject to the state and local title ad valorem tax fees
505 provided for under paragraph (1) of subsection (b) of this Code section; provided,
506 however, that such other government entity shall not qualify for the exclusion under this
507 paragraph unless it is exempt from ad valorem tax and sales and use tax pursuant to
508 general law.
509 (7)(A) Any motor vehicle which is exempt from sales and use tax pursuant to
510 paragraph (30) of Code Section 48-8-3 shall be exempt from state and local title ad
511 valorem tax fees under this subsection.
512 (B) Any motor vehicle which is exempt from ad valorem taxation pursuant to Code
513 Section 48-5-478, 48-5-478.1, 48-5-478.2, or 48-5-478.3 shall be exempt from state and
514 local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code
515 section.
516 (8) There shall be a penalty imposed on the transfer of all or any part of the interest in a
517 business entity that includes primarily as an asset of such business entity one or more
518 motor vehicles, when, in the determination of the state revenue commissioner, such
519 transfer is done to evade the payment of state and local title ad valorem tax fees under
520 this subsection. Such penalty shall not exceed $2,500.00 as a state penalty per motor
521 vehicle and shall not exceed $2,500.00 as a local penalty per motor vehicle, as
522 determined by the state revenue commissioner, plus the amount of the state and local title
523 ad valorem tax fees. Such determination shall be made within 60 days of the state
524 revenue commissioner receiving information that a transfer may be in violation of this
525 paragraph.
526 (9) Any owner of any motor vehicle who fails to submit within 30 days of the date such
527 owner is required by law to register such vehicle in this state an application for a first
528 certificate of title under Code Section 40-3-21 or a certificate of title under Code
529 Section 40-3-32 shall be required to pay a penalty in the amount of 10 percent of the state
530 title ad valorem tax fees and 10 percent of the local title ad valorem tax fees required
531 under this Code section, plus interest at the rate of 1.0 percent per month, unless a
532 temporary permit has been issued by the tax commissioner. The tax commissioner shall
533 grant a temporary permit in the event the failure to timely apply for a first certificate of
534 title is due to the failure of a lienholder to comply with Code Section 40-3-56, regarding
535 release of a security interest or lien, and no penalty or interest shall be assessed. Such
536 penalty and interest shall be in addition to the penalty and fee required under Code

537 Section 40-3-21 or 40-3-32, as applicable. A new or used motor vehicle dealer shall be
538 responsible for remitting state and local title ad valorem tax fees in the same manner as
539 otherwise required of an owner under this paragraph and shall be subject to the same
540 penalties and interest as an owner for noncompliance with the requirements of this
541 paragraph.
542 (10) The owner of any motor vehicle purchased in this state for which a title was issued
543 in this state on or after January 1, 2012, and prior to March 1, 2013, shall be authorized
544 to opt in to the provisions of this subsection at any time prior to January 1, 2014, upon
545 compliance with the following requirements:
546 (A)(i) The total amount of state and local title ad valorem tax fees which would be
547 due from March 1, 2013, to December 31, 2013, if such vehicle had been titled in
548 2013 shall be determined; and
549 (ii) The total amount of state and local sales and use tax and state and local ad
550 valorem tax under Chapter 5 of Title 48 which were due and paid in 2012 for that
551 motor vehicle and, if applicable, the total amount of such taxes which were due and
552 paid for that motor vehicle in 2013 shall be determined; and
553 (B)(i) If the amount derived under division (i) of subparagraph (A) of this paragraph
554 is greater than the amount derived under division (ii) subparagraph (A) of this
555 paragraph, the owner shall remit the difference to the tag agent. Such remittance shall
556 be deemed local title ad valorem tax fee proceeds; or
557 (ii) If the amount derived under division (i) of subparagraph (A) of this paragraph is
558 less than the amount derived under division (ii) of subparagraph (A) of this paragraph,
559 no additional amount shall be due and payable by the owner.
560 Upon certification by the tag agent of compliance with the requirements of this
561 paragraph, such motor vehicle shall not be subject to ad valorem tax as otherwise
562 required under Chapter 5 of Title 48 in the same manner as otherwise provided in
563 paragraph (1) of subsection (b) of this Code section.
564 (11)(A) In the case of rental motor vehicles owned by a rental motor vehicle concern,
565 the state title ad valorem tax fee shall be in an amount equal to .75 percent of the fair
566 market value of the motor vehicle, and the local title ad valorem tax fee shall be in an
567 amount equal to .75 percent of the fair market value of the motor vehicle, but only if
568 in the immediately prior calendar year the average amount of sales and use tax
569 attributable to the rental charge of each such rental motor vehicle was at least $400.00
570 as certified by the state revenue commissioner.
571 (B) Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized
572 by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

573 (12) A loaner vehicle shall not be subject to state and local title ad valorem tax fees
574 under paragraph (1) of subsection (b) of this Code section for a period of time not to
575 exceed six months in a calendar year commencing on the date such loaner vehicle is
576 withdrawn temporarily from inventory. Immediately upon the expiration of such
577 six-month period, if the dealer does not return the loaner vehicle to inventory for resale,
578 the dealer shall be responsible for remitting state and local title ad valorem tax fees in the
579 same manner as otherwise required of an owner under paragraph (9) of this subsection
580 and shall be subject to the same penalties and interest as an owner for noncompliance
581 with the requirements of paragraph (9) of this subsection.
582 (13) Any motor vehicle which is donated to a nonprofit organization exempt from
583 taxation under Section 501(c)(3) of the Internal Revenue Code for the purpose of being
584 transferred to another person shall, when titled in the name of such nonprofit
585 organization, not be subject to state and local title ad valorem tax fees under
586 paragraph (1) of subsection (b) of this Code section but shall be subject to state and local
587 title ad valorem tax fees otherwise applicable to salvage titles under paragraph (2) of
588 subsection (b) of this Code section.
589 (e) The fair market value of any motor vehicle subject to this Code section shall be
590 appealable in the same manner as otherwise authorized for a motor vehicle subject to ad
591 valorem taxation under Code Section 48-5-450.
592 (f) Beginning in 2014, on or before January 31 of each year, the department shall provide
593 a report to the chairpersons of the House Committee on Ways and Means and the Senate
594 Finance Committee showing the state and local title ad valorem tax fee revenues collected
595 pursuant to this chapter and the motor vehicle ad valorem tax proceeds collected pursuant
596 to Chapter 5 of this title during the preceding calendar year."

597 **SECTION 1-5.**

598 Said title is further amended in Code Section 48-8-3, relating to exemptions from sales and
599 use tax, by replacing "; or" with a semicolon at the end of paragraph (90), replacing the
600 period at the end of paragraph (91) with "; or", and by adding a new paragraph to read as
601 follows:
602 "(92) The sale or purchase of any motor vehicle titled in this state on or after March 1,
603 2013, pursuant to Code Section 48-5B-1. This exemption shall not apply to leases or
604 rentals of motor vehicles or to those sales and use taxes collected pursuant to
605 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

715 (iii) Is 65 years of age or older during any part of the year.
716 (E) For the purposes of this paragraph, retirement income shall include but not be
717 limited to interest income, dividend income, net income from rental property, capital
718 gains income, income from royalties, income from pensions and annuities, and no more
719 than $4,000.00 of an individual's earned income. Earned income in excess of
720 $4,000.00, including but not limited to net business income earned by an individual
721 from any trade or business carried on by such individual, wages, salaries, tips, and other
722 employer compensation, shall not be regarded as retirement income. The receipt of
723 earned income shall not diminish any taxpayer's eligibility for the retirement income
724 exclusions allowed by this paragraph except to the extent of the express limitation
725 provided in this subparagraph.
726 (F) The commissioner shall by regulation require proof of the eligibility of the taxpayer
727 for the exclusions allowed by this paragraph.
728 (G) The commissioner shall by regulation provide that for taxable years beginning on
729 or after January 1, 1989, and ending before October 1, 1990, penalty and interest may
730 be waived or reduced for any taxpayer whose estimated tax payments and tax
731 withholdings are less than 70 percent of such taxpayer's Georgia income tax liability
732 if the commissioner determines that such underpayment or deficiency is due to an
733 increase in net taxable income attributable directly to amendments to this paragraph or
734 paragraph (4) of this subsection enacted at the 1989 special session of the General
735 Assembly and not due to willful neglect or fraud;″

736 **PART III**
737 **SECTION 3-1.**
738 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
739 amended by revising Code Section 48-7-29.12, relating to tax credits for qualified donation
740 of real property, carryover of credit, appraisals, transfer of credit, and penalty, as follows:
741 ″48-7-29.12.
742 (a) As used in this Code section, the term:
743 (1) <u>'Conservation easement' means a nonpossessory interest in real property imposing</u>
744 <u>limitations or affirmative obligations, the purposes of which are consistent with at least</u>
745 <u>two conservation purposes.</u>
746 <u>(2) 'Conservation purpose' means any of the following:</u>
747 <u>(A) Water quality protection for wetlands, rivers, streams, or lakes;</u>
748 <u>(B) Protection of wildlife habitat consistent with state wildlife conservation policies;</u>
749 <u>(C) Protection of outdoor recreation consistent with state outdoor recreation policies;</u>
750 <u>(D) Protection of prime agricultural or forestry lands; and</u>

751 (E) Protection of cultural sites, heritage corridors, or archeological and historic
752 resources.
753 (3) 'Donated property' means the real property of which a qualified donation is made
754 pursuant to this Code section.
755 (4) 'Eligible donor' means any person who owns an interest in a qualified donation.
756 (5) 'Fair market value' means the value of the donated property ~~established by a property~~
757 ~~appraisal or appraisals meeting the requirements of Section 170 of Title 26 of the United~~
758 ~~States Code, to be submitted in such manner as the commissioner may by regulation~~
759 ~~require~~ as determined pursuant to subsections (c.1) and (c.2) of this Code section.
760 ~~(2)~~(6) 'Qualified donation' means the fee simple conveyance to the state; a county, a
761 municipality, or a consolidated government of this state; ~~to~~ the federal government; or a
762 bona fide charitable nonprofit organization qualified under the Internal Revenue Code
763 and, beginning on January 1, 2014, accredited by the Land Trust Accreditation
764 Commission of 100 percent of all right, title, and interest in the entire parcel of donated
765 real property, ~~which~~ and the donation is accepted by such state, county, municipality,
766 consolidated government, federal government, or bona fide charitable nonprofit
767 organization for use in a manner consistent with at least two conservation purposes. Such
768 term shall also include the donation to and acceptance by the state; a county, a
769 municipality, or a consolidated government of this state; ~~to~~ the federal government; or a
770 bona fide charitable nonprofit organization qualified under the Internal Revenue Code
771 and, beginning on January 1, 2014, accredited by the Land Trust Accreditation
772 Commission of ~~an interest in real property which qualifies as~~ a conservation easement
773 ~~under paragraph (4) of Code Section 12-6A-2~~. Any real property which is otherwise
774 required to be dedicated pursuant to local government regulations or ordinances or to
775 increase building density levels shall not be eligible as a qualified donation under this
776 Code section. Any real property which is used for or associated with the playing of golf
777 or is planned to be so used or associated shall not be eligible as a qualified donation under
778 this Code section.
779 ~~(3) 'Eligible donor' means any person who owns an interest in a qualified donation.~~
780 ~~(4)~~(7) 'Related person' has the meaning provided by Code Section 48-7-28.3.
781 ~~(5)~~(8) 'Substantial valuation misstatement' means a valuation such that the claimed value
782 of any property ~~claimed on any return of tax imposed under this chapter, or on any claim~~
783 ~~for refund of such tax,~~ on the appraisal as submitted to the State Properties Commission
784 is 150 percent or more of the amount determined to be the correct amount of such
785 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

858 valuation misstatement shall be submitted to the Georgia Real Estate Commission for
859 further investigation and disciplinary action. Upon receipt of the State Properties
860 Commission's determination, the Department of Natural Resources may proceed with the
861 certification process.
862 (c.2) The Board of Natural Resources shall promulgate any rules and regulations necessary
863 to implement and administer subsections (c) and (c.1) of this Code section. A final
864 determination by the Department of Natural Resources or the State Properties Commission
865 shall be subject to review and appeal under Chapter 13 of Title 50, the 'Georgia
866 Administrative Procedure Act.'
867 (d)(1) In no event shall the total amount of any tax credit under this Code section for a
868 taxable year exceed the taxpayer's income tax liability. In no event shall the total amount
869 of the tax credit allowed to a taxpayer under subsection (b) of this Code section exceed
870 $250,000.00 with respect to tax liability determined under Code Section 48-7-20 or
871 $500,000.00 with respect to tax liability determined under Code Section 48-7-21. Any
872 unused tax credit shall be allowed to be carried forward to apply to the taxpayer's
873 succeeding ten years' tax liability. However, the amount in excess of such annual dollar
874 limits shall not be eligible for carryover to the taxpayer's succeeding years' tax liability
875 nor shall such excess amount be claimed by or reallocated to any other taxpayer. No such
876 tax credit shall be allowed the taxpayer against prior years' tax liability.
877 (2) Only one qualified donation may be made with respect to any real property that was,
878 in the ~~year~~ five years prior to donation, within the same tax parcel of record, except that
879 a subsequent donation may be made by a person who is not a related person with respect
880 to any prior eligible donors of any portion of such tax parcel.
881 (d.1) Any tax credits under this Code section earned by a taxpayer in the taxable years
882 beginning on or after January 1, 2013, and previously claimed but not used by such
883 taxpayer against such taxpayer's income tax may be transferred or sold in whole or in part
884 by such taxpayer to another Georgia taxpayer, subject to the following conditions:
885 (1) The transferor may make only a single transfer or sale of tax credits earned in a
886 taxable year; however, the transfer or sale may involve one or more transferees;
887 ~~(1)~~(2) The transferor shall submit to the department a written notification of any transfer
888 or sale of tax credits within 30 days after the transfer or sale of such tax credits. The
889 notification shall include such transferor's tax credit balance prior to transfer, the
890 remaining balance after transfer, all tax identification numbers for each transferee, the
891 date of transfer, the amount transferred, and any other information required by the
892 department;
893 ~~(2)~~(3) Failure to comply with this subsection shall result in the disallowance of the tax
894 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;

1002 (28) ~~The sale of cattle, hogs, sheep, horses, poultry, or bees when sold for breeding~~
1003 ~~purposes~~ Reserved;
1004 (29) ~~The sale of the following types of agricultural machinery:~~
1005 ~~(A) Machinery and equipment for use on a farm in the production of poultry and eggs~~
1006 ~~for sale;~~
1007 ~~(B) Machinery and equipment used in the hatching and breeding of poultry and the~~
1008 ~~breeding of livestock;~~
1009 ~~(C) Machinery and equipment for use on a farm in the production, processing, and~~
1010 ~~storage of fluid milk for sale;~~
1011 ~~(D) Machinery and equipment for use on a farm in the production of livestock for sale;~~
1012 ~~(E) Machinery and equipment which is used by a producer of poultry, eggs, fluid milk,~~
1013 ~~or livestock for sale for the purpose of harvesting farm crops to be used on the farm by~~
1014 ~~that producer as feed for poultry or livestock;~~
1015 ~~(F) Machinery which is used directly in tilling the soil or in animal husbandry when~~
1016 ~~the machinery is incorporated for the first time into a new farm unit engaged in tilling~~
1017 ~~the soil or in animal husbandry in this state;~~
1018 ~~(G) Machinery which is used directly in tilling the soil or in animal husbandry when~~
1019 ~~the machinery is incorporated as additional machinery for the first time into an existing~~
1020 ~~farm unit already engaged in tilling the soil or in animal husbandry in this state;~~
1021 ~~(H) Machinery which is used directly in tilling the soil or in animal husbandry when~~
1022 ~~the machinery is bought to replace machinery in an existing farm unit already engaged~~
1023 ~~in tilling the soil or in animal husbandry in this state;~~
1024 ~~(I) Rubber-tired farm tractors and attachments to the tractors which are sold to persons~~
1025 ~~engaged primarily in producing farm crops for sale and which are used exclusively in~~
1026 ~~tilling, planting, cultivating, and harvesting farm crops, and equipment used exclusively~~
1027 ~~in harvesting farm crops or in processing onion crops which are sold to persons~~
1028 ~~engaged primarily in producing farm crops for sale. For the purposes of this~~
1029 ~~subparagraph, the term 'farm crops' includes only those crops which are planted and~~
1030 ~~harvested within a 12 month period; and~~
1031 ~~(J) Pecan sprayers, pecan shakers, and other equipment used in harvesting pecans~~
1032 ~~which is sold to persons engaged in the growing, harvesting, and production of pecans~~
1033 Reserved;
1034 (29.1) ~~The sale or use of any off-road equipment and related attachments which are sold~~
1035 ~~to or used by persons engaged primarily in the growing or harvesting of timber and which~~
1036 ~~are used exclusively in site preparation, planting, cultivating, or harvesting timber.~~
1037 ~~Equipment used in harvesting shall include all off-road equipment and related~~
1038 ~~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, delimbers, 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~~

1076 Reserved;″

1077 ″(35)~~(A) The sale, use, storage, or consumption of:~~

1078 ~~(i) Industrial materials for future processing, manufacture, or conversion into articles~~

1079 ~~of tangible personal property for resale when the industrial materials become a~~

1080 ~~component part of the finished product;~~

1081 ~~(ii) Industrial materials other than machinery and machinery repair parts that are~~

1082 ~~coated upon or impregnated into the product at any stage of its processing,~~

1083 ~~manufacture, or conversion; or~~

1084 ~~(iii) Materials, containers, labels, sacks, or bags used for packaging tangible personal~~

1085 ~~property for shipment or sale. To qualify for the packaging exemption, the items shall~~

1086 ~~be used solely for packaging and shall not be purchased for reuse;~~

1087 ~~(B) As used in this paragraph, the term 'industrial materials' does not include natural~~

1088 ~~or artificial gas, oil, gasoline, electricity, solid fuel, ice, or other materials used for heat,~~

1089 ~~light, power, or refrigeration in any phase of the manufacturing, processing, or~~

1090 ~~converting process~~

1091 Reserved;″

1092 ″(37) ~~The sale of machinery and equipment for use in combating air and water pollution~~

1093 ~~and any industrial material bought for further processing in the manufacture of tangible~~

1094 ~~personal property for sale or any part of the industrial material or by-product thereof~~

1095 ~~which becomes a wasteful product contributing to pollution problems and which is used~~

1096 ~~up in a recycling or burning process. Any person making a sale of machinery and~~

1097 ~~equipment for the purposes specified in this paragraph shall collect a tax imposed on the~~

1098 ~~sale by this article unless the purchaser furnishes the person making the sale with a~~

1099 ~~certificate issued by the commissioner certifying that the purchaser is entitled to purchase~~

1100 ~~the machinery, equipment, or industrial material without paying the tax~~ Reserved;″

1101 ″(49) ~~Sales of liquefied petroleum gas or other fuel used in a structure in which broilers,~~

1102 ~~pullets, or other poultry are raised~~ Reserved;″

1103 ″(64) ~~The sale of electricity or other fuel for the operation of an irrigation system which~~

1104 ~~is used on a farm exclusively for the irrigation of crops~~ Reserved;″

1105 ″(77) ~~Sales of liquefied petroleum gas or other fuel used in a structure in which plants,~~

1106 ~~seedlings, nursery stock, or floral products are raised primarily for the purposes of~~

1107 ~~making sales of such plants, seedlings, nursery stock, or floral products for resale~~

1108 Reserved;″

1109 ″(79) ~~The sale or use of ice for chilling poultry or vegetables in processing for market~~

1110 ~~and for chilling poultry or vegetables in storage rooms, compartments, or delivery trucks~~

1111 Reserved;″

1112 ″(90) ~~The sale of electricity to a manufacturer located in this state used directly in the~~
1113 ~~manufacture of a product if the direct cost of such electricity exceeds 50 percent of the~~
1114 ~~cost of all materials, including electricity, used directly in the product~~ Reserved; or″

1115 **SECTION 5-2.**

1116 Said title is further amended by adding a new Code section to read as follows:

1117 ″48-8-3.2.

1118 (a) As used in this Code section, the term:

1119 (1) 'Consumable supplies' means tangible personal property, other than machinery,
1120 equipment, and industrial materials, that is consumed or expended during the
1121 manufacture of tangible personal property. The term includes, but is not limited to, water
1122 treatment chemicals for use in, on, or in conjunction with machinery or equipment and
1123 items that are readily disposable. The term excludes packaging supplies and energy.

1124 (2) 'Energy' means natural or artificial gas, oil, gasoline, electricity, solid fuel, wood,
1125 waste, ice, steam, water, and other materials necessary and integral for heat, light, power,
1126 refrigeration, climate control, processing, or any other use in any phase of the
1127 manufacture of tangible personal property. The term excludes energy purchased by a
1128 manufacturer that is primarily engaged in producing electricity for resale.

1129 (3) 'Equipment' means tangible personal property, other than machinery, industrial
1130 materials, and consumable supplies. The term includes durable devices and apparatuses
1131 that are generally designed for long-term continuous or repetitive use. Examples of
1132 equipment include, but are not limited to, machinery clothing, cones, cores, pallets, hand
1133 tools, tooling, molds, dies, waxes, jigs, patterns, conveyors, safety devices, and pollution
1134 control devices. The term includes components and repair or replacement parts. The
1135 term excludes real property.

1136 (4) 'Fixtures' means tangible personal property that has been installed or attached to land
1137 or to any building thereon and that is intended to remain permanently in its place. A
1138 consideration for whether tangible property is a fixture is whether its removal would
1139 cause significant damage to such property or to the real property to which it is attached.
1140 Fixtures are classified as real property. Examples of fixtures include, but are not limited
1141 to, plumbing, lighting fixtures, slabs, and foundations.

1142 (5) 'Industrial materials' means materials for future processing, manufacture, or
1143 conversion into articles of tangible personal property for resale when the industrial
1144 materials become a component part of the finished product. The term also means
1145 materials that are coated upon or impregnated into the product at any stage of its
1146 processing, manufacture, or conversion, even though such materials do not remain a
1147 component part of the finished product for sale. The term includes raw materials.

1148 (6) 'Local sales and use tax' means any sales tax, use tax, or local sales and use tax which
1149 is levied and imposed in an area consisting of less than the entire state, however
1150 authorized, including, but not limited to, such taxes authorized by or pursuant to
1151 constitutional amendment; by or pursuant to Section 25 of an Act approved March 10,
1152 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit
1153 Authority Act of 1965'; and by or pursuant to any article of this chapter.
1154 (7) 'Machinery' means an assemblage of parts that transmits force, motion, and energy
1155 one to the other in a predetermined manner to accomplish a specific objective. The term
1156 includes a machine and all of its components, including, but not limited to, belts, pulleys,
1157 shafts, gauges, gaskets, valves, hoses, pipes, wires, blades, bearings, operational
1158 structures attached to the machine, including stairways and catwalks, or other devices that
1159 are required to regulate or control the machine, allow access to the machine, or enhance
1160 or alter its productivity or functionality. The term includes repair or replacement parts.
1161 The term excludes real property and consumable supplies.
1162 (8) 'Machinery clothing' means felts, screen plates, wires, or any other items used to
1163 carry, form, or dry work in process through the manufacture of tangible personal
1164 property.
1165 (9) 'Manufacture of tangible personal property,' used synonymously with the term
1166 'manufacturing,' means a manufacturing operation, series of continuous manufacturing
1167 operations, or series of integrated manufacturing operations engaged in at a
1168 manufacturing plant or among manufacturing plants to change, process, transform, or
1169 convert industrial materials by physical or chemical means into articles of tangible
1170 personal property for sale, for promotional use, or for further manufacturing that have a
1171 different form, configuration, utility, composition, or character. The term includes, but
1172 is not limited to, the storage, preparation, or treatment of industrial materials; assembly
1173 of finished units of tangible personal property to form a new unit or units of tangible
1174 personal property; movement of industrial materials and work in process from one
1175 manufacturing operation to another; temporary storage between two points in a
1176 continuous manufacturing operation; random and sample testing that occurs at a
1177 manufacturing plant; and a packaging operation that occurs at a manufacturing plant.
1178 (10) 'Manufacturer' means a person or business, or a location of a person or business, that
1179 is engaged in the manufacture of tangible personal property for sale or further
1180 manufacturing. To be considered a manufacturer, the person or business, or the location
1181 of a person or business, must be:
1182 (A) Classified as a manufacturer under the 2007 North American Industrial
1183 Classification System Sectors 21, 31, 32, or 33, or North American Industrial
1184 Classification System industry code 22111 or specific code 511110; or

1185 (B) Generally regarded as being a manufacturer.
1186 Businesses that are primarily engaged in providing personal or professional services or
1187 in the operation of retail outlets, generally including, but not limited to, grocery stores,
1188 pharmacies, bakeries, or restaurants, are not considered manufacturers.
1189 (11) 'Manufacturing plant' means any facility, site, or other area where a manufacturer
1190 engages in the manufacture of tangible personal property.
1191 (12) 'Packaging operation' means bagging, boxing, crating, canning, containerizing,
1192 cutting, measuring, weighing, wrapping, labeling, palletizing, or other similar processes
1193 necessary to prepare or package manufactured products in a manner suitable for sale or
1194 delivery to customers as finished goods or suitable for the transport of work in process
1195 at or among manufacturing plants for further manufacturing, and the movement of such
1196 finished goods or work in process to a storage or distribution area at a manufacturing
1197 plant.
1198 (13) 'Packaging supplies' means materials, including, but not limited to, containers,
1199 labels, sacks, boxes, wraps, fillers, cones, cores, pallets, or bags, used in a packaging
1200 operation solely for packaging tangible personal property.
1201 (14) 'Real property' means land, any buildings thereon, and any fixtures attached thereto.
1202 (15) 'Repair or replacement part' means a part for any machinery or equipment that is
1203 necessary and integral to the manufacture of tangible personal property. Repair or
1204 replacement parts must be used to maintain, repair, restore, install, or upgrade such
1205 machinery or equipment that is necessary and integral to the manufacture of tangible
1206 personal property. Examples of repair and replacement parts may include, but are not
1207 limited to, oils, greases, hydraulic fluids, coolants, lubricants, machinery clothing, molds,
1208 dies, waxes, jigs, and other interchangeable tooling.
1209 (16) 'Substantial purpose' means the purpose for which an item of tangible personal
1210 property is used more than one-third of the time of the total amount of time that the item
1211 is in use; alternatively, instead of time, the purpose may be measured in terms of other
1212 applicable criteria, including, but not limited to, the number of items produced.
1213 (b) The sale, use, or storage of machinery or equipment which is necessary and integral
1214 to the manufacture of tangible personal property and the sale, use, storage, or consumption
1215 of industrial materials or packaging supplies shall be exempt from all sales and use
1216 taxation.
1217 (c)(1) Except as otherwise provided in paragraph (4) of this subsection, the sale, use,
1218 storage, or consumption of energy which is necessary and integral to the manufacture of
1219 tangible personal property at a manufacturing plant in this state shall be exempt from all
1220 sales and use taxation except for the sales and use tax for educational purposes levied
1221 pursuant to Part 2 of Article 3 of this chapter and Article VIII, Section VI, Paragraph IV

1222 of the Constitution and except for local sales and use taxes for educational purposes
1223 authorized by or pursuant to local constitutional amendment. This exemption shall be
1224 phased in over a four-year period as follows:
1225 (A) For the period commencing January 1, 2013, and concluding at the last moment
1226 of December 31, 2013, such sale, use, storage, or consumption of energy shall be
1227 exempt from an amount equal to 25 percent of the total amount of state sales and use
1228 tax that would be collected at the rate of 4 percent on such sale, use, storage, or
1229 consumption of energy and shall be exempt from an amount equal to 25 percent of the
1230 total amount of each local sales and use tax that would be collected at the rate of 1
1231 percent on such sale, use, storage, or consumption of energy;
1232 (B) For the period commencing January 1, 2014, and concluding at the last moment
1233 of December 31, 2014, such sale, use, storage, or consumption of energy shall be
1234 exempt from an amount equal to 50 percent of the total amount of state sales and use
1235 tax that would be collected at the rate of 4 percent on such sale, use, storage, or
1236 consumption of energy and shall be exempt from an amount equal to 50 percent of the
1237 total amount of each local sales and use tax that would be collected at the rate of 1
1238 percent on such sale, use, storage, or consumption of energy;
1239 (C) For the period commencing January 1, 2015, and concluding at the last moment
1240 of December 31, 2015, such sale, use, storage, or consumption of energy shall be
1241 exempt from an amount equal to 75 percent of the total amount of state sales and use
1242 tax that would be collected at the rate of 4 percent on such sale, use, storage, or
1243 consumption of energy and shall be exempt from an amount equal to 75 percent of the
1244 total amount of each local sales and use tax that would be collected at the rate of 1
1245 percent on such sale, use, storage, or consumption of energy; and
1246 (D) On or after January 1, 2016, such sale, use, storage, or consumption of energy shall
1247 be fully exempt from such sales and use taxation.
1248 (2)(A) Any person making a sale of items qualifying for exemption under paragraph
1249 (1) of this subsection shall be relieved of the burden of proving such qualification if the
1250 person making the sale receives a certificate from the purchaser certifying that the
1251 purchase is exempt under this subsection.
1252 (B) Any person who qualifies for the exemption under paragraph (1) of this subsection
1253 shall notify and certify to the person making the qualified sale that such exemption is
1254 applicable to the sale.
1255 (3) With respect to services which are regularly billed on a monthly basis, the exemption
1256 under paragraph (1) of this subsection shall become effective with respect to and the
1257 exemption shall apply to services billed on or after the effective date of this Code section.

1258 (4) If a competitive project of regional significance under paragraph (92) of Code
1259 Section 48-8-3 is started in a county or municipality, it shall not be subject to the phase-in
1260 period contained in subparagraphs (A), (B), and (C) of paragraph (1) of this subsection,
1261 but such project shall receive the full exemption provided for in subparagraph (D) of
1262 paragraph (1) of this subsection notwithstanding the January 1, 2016, limitation in that
1263 subparagraph.
1264 (d) The exemptions under this Code section shall be applied as follows:
1265 (1) The manufacture of tangible personal property commences as industrial materials are
1266 received at a manufacturing plant and concludes once the packaging operation is
1267 complete and the tangible personal property is ready for sale or shipment, regardless of
1268 whether the manufacture of tangible personal property occurs at one or more separate
1269 manufacturing plants;
1270 (2) For machinery or equipment that has multiple purposes, some purposes necessary and
1271 integral to the manufacture of tangible personal property and some purposes not
1272 necessary and integral to the manufacture of tangible personal property, the substantial
1273 purpose of such machinery or equipment will prevail for purposes of determining the
1274 eligibility for exemption. The commissioner shall consider any reasonable methodology
1275 for measuring the substantial purpose of machinery or equipment for which the
1276 substantial purpose is not readily identifiable;
1277 (3) For leased machinery or equipment that did not qualify for an exemption at the date
1278 of lease inception and subsequently qualifies for the exemption under this Code section,
1279 the exemption shall apply to all lease payments made subsequent to such qualification;
1280 (4) Miscellaneous spare parts for which the ultimate use of the spare parts is unknown
1281 at the time of purchase are eligible for the exemption as repair or replacement parts.
1282 However, use tax must be accrued and remitted if spare parts are withdrawn from the
1283 inventory of spare parts and used for any purpose other than to maintain, repair, restore,
1284 install, or upgrade machinery or equipment that is necessary and integral to the
1285 manufacture of tangible personal property; and
1286 (5) Energy necessary and integral to the manufacture of tangible personal property
1287 includes energy used to operate machinery or equipment, to create conditions necessary
1288 for the manufacture of tangible personal property, or to perform an actual part of the
1289 manufacture of tangible personal properly; energy used in administrative or other
1290 ancillary activities that are located and performed at the manufacturing plant so long as
1291 such activities primarily benefit such manufacture of tangible personal property; energy
1292 used in related operations that convey, transport, handle, or store raw materials or
1293 finished goods at the manufacturing plant; energy used for heating, cooling, ventilation,
1294 illumination, fire safety or prevention, and personal comfort and convenience of the

1295 manufacturer's employees at the manufacturing plant; and energy used for any other
1296 purpose at a manufacturing plant.
1297 (e) Examples that qualify as necessary and integral to the manufacture of tangible personal
1298 property include, but are not limited to:
1299 (1) Machinery or equipment used to convey or transport industrial materials, work in
1300 process, consumable supplies, or packaging materials at or among manufacturing plants
1301 or to convey and transport finished goods to a distribution or storage point at the
1302 manufacturing plant. Specific examples may include, but are not limited to, forklifts,
1303 conveyors, cranes, hoists, and pallet jacks;
1304 (2) Machinery or equipment used to gather, arrange, sort, mix, measure, blend, heat,
1305 cool, clean, or otherwise treat, prepare, or store industrial materials for further
1306 manufacturing;
1307 (3) Machinery or equipment used to control, regulate, heat, cool, or produce energy for
1308 other machinery or equipment that is necessary and integral to the manufacture of
1309 tangible personal property. Specific examples may include, but are not limited to,
1310 boilers, chillers, condensers, water towers, dehumidifiers, humidifiers, heat exchangers,
1311 generators, transformers, motor control centers, solar panels, air dryers, and air
1312 compressors;
1313 (4) Testing and quality control machinery or equipment located at a manufacturing plant
1314 used to test the quality of industrial materials, work in process, or finished goods;
1315 (5) Starters, switches, circuit breakers, transformers, wiring, piping, and other electrical
1316 components, including associated cable trays, conduit, and insulation, located between
1317 a motor control center and exempt machinery or equipment or between separate units of
1318 exempt machinery or equipment;
1319 (6) Machinery or equipment used to maintain, clean, or repair exempt machinery or
1320 equipment;
1321 (7) Machinery or equipment used to provide safety for the employees working at a
1322 manufacturing plant, including, but not limited to, safety machinery and equipment
1323 required by federal or state law, gloves, ear plugs, face masks, protective eyewear, hard
1324 hats or helmets, or breathing apparatuses, regardless of whether the items would
1325 otherwise be considered consumable supplies;
1326 (8) Machinery or equipment used to condition air or water to produce conditions
1327 necessary for the manufacture of tangible personal property, including pollution control
1328 machinery or equipment and water treatment systems;
1329 (9) Pollution control, sanitizing, sterilizing, or recycling machinery or equipment;
1330 (10) Industrial materials bought for further processing in the manufacture of tangible
1331 personal property for sale or further processing or any part of the industrial material or

1332 by-product thereof which becomes a wasteful product contributing to pollution problems
1333 and which is used up in a recycling or burning process;
1334 (11) Machinery or equipment used in quarrying and mining activities, including blasting,
1335 extraction, and crushing; and
1336 (12) Energy used at a manufacturing plant."

1337 **SECTION 5-3.**

1338 Said title is further amended by adding a new Code section to read as follows:
1339 "48-8-3.3.
1340 (a) As used in this Code section, the term:
1341 (1)(A) 'Agricultural machinery and equipment' means machinery and equipment used
1342 in the production of agricultural products, including, but not limited to, machinery and
1343 equipment used in the production of poultry and eggs for sale, including, but not limited
1344 to, equipment used in the cleaning or maintenance of poultry houses and the
1345 surrounding premises; in hatching and breeding of poultry and the breeding of livestock
1346 and equine; in production, processing, and storage of fluid milk for sale; in drying,
1347 ripening, cooking, further processing, or storage of agricultural products, including, but
1348 not limited to, orchard crops; in production of livestock and equine for sale; by a
1349 producer of poultry, eggs, fluid milk, equine, or livestock for sale; for the purpose of
1350 harvesting agricultural products to be used on the farm by that producer as feed for
1351 poultry, equine, or livestock; directly in tilling the soil or in animal husbandry when the
1352 machinery is incorporated for the first time or as additional machinery for the first time
1353 into a new or an existing farm unit engaged in tilling the soil or in animal husbandry in
1354 this state; directly in tilling the soil or in animal husbandry when the machinery is
1355 bought to replace machinery in an existing farm unit already engaged in tilling the soil
1356 or in animal husbandry in this state; machinery and equipment used exclusively for
1357 irrigation of agricultural products, including, but not limited to, fruit, vegetable, and nut
1358 crops; and machinery and equipment used to cool agricultural products in storage
1359 facilities.
1360 (B) 'Agricultural machinery and equipment' also means farm tractors and attachments
1361 to the tractors; off-road vehicles used primarily in the production of nursery and
1362 horticultural crops; self-propelled fertilizer or chemical application equipment sold to
1363 persons engaged primarily in producing agricultural products for sale and which are
1364 used exclusively in tilling, planting, cultivating, and harvesting agricultural products,
1365 including, but not limited to, growing, harvesting, or processing onions, peaches,
1366 blackberries, blueberries, or other orchard crops, nursery, and other horticultural crops;
1367 devices and containers used in the transport and shipment of agricultural products;

1368 aircraft exclusively used for spraying agricultural crops; pecan sprayers, pecan shakers,
1369 and other equipment used in harvesting pecans sold to persons engaged in the growing,
1370 harvesting, and production of pecans; and off-road equipment and related attachments
1371 which are sold to or used by persons engaged primarily in the growing or harvesting of
1372 timber and which are used exclusively in site preparation, planting, cultivating, or
1373 harvesting timber. Equipment used in harvesting shall include all off-road equipment
1374 and related attachments used in every forestry procedure starting with the severing of
1375 a tree from the ground until and including the point at which the tree or its parts in any
1376 form has been loaded in the field in or on a truck or other vehicle for transport to the
1377 place of use. Such off-road equipment shall include, but not be limited to, skidders,
1378 feller bunchers, debarkers, delimbers, chip harvesters, tub-grinders, woods cutters,
1379 chippers of all types, loaders of all types, dozers, mid-motor graders, and the related
1380 attachments; grain bins and attachments to grain bins; any repair, replacement, or
1381 component parts installed on agricultural machinery and equipment; trailers used to
1382 transport agricultural products; all-terrain vehicles and multipassenger rough-terrain
1383 vehicles; and any other off-road vehicles used directly and principally in the production
1384 of agricultural or horticultural products.
1385 (2) 'Agricultural operations' or 'agricultural products' means raising, growing, harvesting,
1386 or storing of crops; feeding, breeding, or managing livestock, equine, or poultry;
1387 producing or storing feed for use in the production of livestock, including, but not limited
1388 to, cattle, calves, swine, hogs, goats, sheep, equine, and rabbits, or for use in the
1389 production of poultry, including, but not limited to, chickens, hens, ratites, and turkeys;
1390 producing plants, trees, Christmas trees, fowl, equine, or animals; or the production of
1391 aquacultural, horticultural, viticultural, silvicultural, grass sod, dairy, livestock, poultry,
1392 egg, and apiarian products. Agricultural products are considered grown in this state if
1393 such products are grown, produced, or processed in this state, whether or not such
1394 products are composed of constituent products grown or produced outside this state.
1395 (3) 'Agricultural production inputs' means seed; seedlings; plants grown from seed,
1396 cuttings, or liners; fertilizers; insecticides; livestock and poultry feeds, drugs, and
1397 instruments used for the administration of such drugs; fencing products and materials
1398 used to produce agricultural products; fungicides; rodenticides; herbicides; defoliants;
1399 soil fumigants; plant growth regulating chemicals; desiccants, including, but not limited
1400 to, shavings and sawdust from wood, peanut hulls, fuller's earth, straw, and hay; feed for
1401 animals, including, but not limited to, livestock, fish, equine, hogs, or poultry; sugar used
1402 as food for honeybees kept for the commercial production of honey, beeswax, and
1403 honeybees; cattle, hogs, sheep, equine, poultry, or bees when sold for breeding purposes;
1404 ice or other refrigerants, including, but not limited to, nitrogen, carbon dioxide, ammonia,

1405 and propylene glycol used in the processing for market or the chilling of agricultural
1406 products in storage facilities, rooms, compartments, or delivery trucks; materials,
1407 containers, crates, boxes, labels, sacks, bags, or bottles used for packaging agricultural
1408 products when the product is either sold in the containers, sacks, bags, or bottles directly
1409 to the consumer or when such use is incidental to the sale of the product for resale; and
1410 containers, plastic, canvas, and other fabrics used in the care and raising of agricultural
1411 products or canvas used in covering feed bins, silos, greenhouses, and other similar
1412 storage structures.
1413 (4) 'Energy used in agriculture' means fuels used for agricultural purposes, including, but
1414 not limited to, off-road diesel, propane, butane, electricity, natural gas, wood, wood
1415 products, or wood by-products; liquefied petroleum gas or other fuel used in structures
1416 in which broilers, pullets, or other poultry are raised, in which swine are raised, in which
1417 dairy animals are raised or milked or where dairy products are stored on a farm, in which
1418 agricultural products are stored, and in which plants, seedlings, nursery stock, or floral
1419 products are raised primarily for the purposes of making sales of such plants, seedlings,
1420 nursery stock, or floral products for resale; electricity or other fuel for the operation of
1421 an irrigation system which is used on a farm exclusively for the irrigation of agricultural
1422 products; and electricity or other fuel used in the drying, cooking, or further processing
1423 of raw agricultural products, including, but not limited to, food processing of raw
1424 agricultural products.
1425 (5) 'Qualified agriculture producer' includes producers of agricultural products who meet
1426 one of the following criteria:
1427 (A) The person or entity is the owner or lessee of agricultural land or other real
1428 property from which $2,500.00 or more of agricultural products were produced and
1429 sold during the year, including payments from government sources;
1430 (B) The person or entity is in the business of providing for-hire custom agricultural
1431 services, including, but not limited to, plowing, planting, harvesting, growing, animal
1432 husbandry or the maintenance of livestock, raising or substantially modifying
1433 agricultural products, or the maintenance of agricultural land from which $2,500.00 or
1434 more of such services were provided during the year;
1435 (C) The person or entity is the owner of land that qualifies for taxation under the
1436 qualifications of bona fide conservation use property as defined in Code Section
1437 48-5-7.4 or qualifies for taxation under the provisions of the Georgia Forest Land
1438 Protection Act as defined in Code Section 48-5-7.7;
1439 (D) The person or entity is in the business of producing long-term agricultural products
1440 from which there might not be annual income, including, but not limited to, timber,
1441 pulpwood, orchard crops, pecans, and horticultural or other multiyear agricultural or

1442 farm products. Applicants must demonstrate that sufficient volumes of such long-term
1443 agricultural products will be produced which have the capacity to generate at least
1444 $2,500.00 in sales annually in the future; or
1445 (E) The person or entity must establish, to the satisfaction of the Commissioner of
1446 Agriculture, that the person or entity is actively engaged in the production of
1447 agricultural products and has or will have created sufficient volumes to generate at least
1448 $2,500.00 in sales annually.
1449 (b) The sales and use taxes levied or imposed by this article shall not apply to sales to, or
1450 use by, a qualified agriculture producer of agricultural production inputs, energy used in
1451 agriculture, and agricultural machinery and equipment.
1452 (c) The Commissioner of Agriculture, at his or her discretion, may use one or both of the
1453 following criteria as a tool to determine eligibility under this Code section:
1454 (1) Business activity on IRS schedule F (Profit or Loss from Farming); or
1455 (2) Farm rental activity on IRS form 4835 (Farm Rental Income and Expenses) or
1456 schedule E (Supplemental Income and Loss).
1457 (d) Qualified agricultural producers that meet the criteria provided for in paragraph (5) of
1458 subsection (a) of this Code section must apply to the Commissioner of Agriculture to
1459 request an agricultural sales and use tax exemption certificate that contains an exemption
1460 number. To facilitate the use of the exemption certificate, a wallet-sized card containing
1461 that same information shall also be issued by the Commissioner of Agriculture.
1462 (e) The Commissioner of Agriculture is authorized to promulgate rules and regulations
1463 governing the issuance of agricultural exemption certificates and the administration of this
1464 Code section. The Commissioner of Agriculture is authorized to establish an oversight
1465 board and direct staff and is authorized to charge annual fees of not less than $15.00 nor
1466 more than $25.00 per year in accordance with Code Section 2-1-5, but in no event shall the
1467 total amount of the proceeds from such fees exceed the cost of administering this Code
1468 section."

1469 **SECTION 5-4.**

1470 Said title is further amended by adding a new article at the end of Chapter 13, relating to
1471 specific, business, and occupation taxes, to read as follows:

1472 "ARTICLE 6

1473 48-13-110.
1474 As used in this article, the term:
1475 (1) 'Dealer' has the same meaning as in Code Section 48-8-2.

1476 (2) 'Energy' has the same meaning as in Code Section 48-8-3.2.
1477 (3) 'Local sales and use tax' means any of the following:
1478 (A) The county special purpose local option sales and use tax under Part 1 of Article
1479 3 of Chapter 8 of this title;
1480 (B) The joint county and municipal sales and use tax under Article 2 of Chapter 8 of
1481 this title;
1482 (C) The homestead option sales and use tax under Article 2A of Chapter 8 of this title;
1483 (D) The tax levied for purposes of a metropolitan area system of public transportation,
1484 as authorized by the amendment to the Constitution set out at Ga. L. 1964, p. 1008; the
1485 continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the
1486 Constitution; and the laws enacted pursuant to such constitutional amendment; or
1487 (E) The water and sewer projects and costs tax pursuant to Article 4 of Chapter 8 of
1488 this title.
1489 (4) 'Purchaser' means any person who purchases energy and who would have been liable
1490 for sales and use tax on such energy but for the exemption provided for in Code Section
1491 48-8-3.2.

1492 48-13-111.
1493 Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the
1494 Constitution, there are created within this state 159 special districts. One such district shall
1495 exist within the geographical boundaries of each county, and the territory of each district
1496 shall include all of the territory within the county except territory located within the
1497 boundaries of any municipality that imposes an excise tax on energy under this article.

1498 48-13-112.
1499 (a)(1) Within the territorial limits of the special district located within the county, each
1500 county in this state may levy and collect an excise tax upon the sale or use of energy
1501 when such sale or use would have constituted a taxable event for purposes of sales and
1502 use tax under Article 1 of Chapter 8 of this title but for the exemption in Code Section
1503 48-8-3.2.
1504 (2) The governing authority of each municipality in this state may, subject to the
1505 conditions of Code Section 48-13-115, levy and collect an excise tax upon the sale or use
1506 of energy when such sale or use would have constituted a taxable event for purposes of
1507 sales and use tax under Article 1 of Chapter 8 of this title but for the exemption in Code
1508 Section 48-8-3.2.
1509 (3) The excise tax levied pursuant to this article shall be phased in over a four-year
1510 period as follows:

1511 (A) For the period commencing January 1, 2013, and concluding at the last moment
1512 of December 31, 2013, such excise tax shall be at a rate equivalent to 25 percent of the
1513 total amount of local sales and use tax in effect in such special district that would be
1514 collected on the sale, use, storage, or consumption of energy but for the exemption in
1515 Code Section 48-8-3.2;
1516 (B) For the period commencing January 1, 2014, and concluding at the last moment
1517 of December 31, 2014, such excise tax shall be at a rate equivalent to 50 percent of the
1518 total amount of local sales and use tax in effect in such special district that would be
1519 collected on the sale, use, storage, or consumption of energy but for the exemption in
1520 Code Section 48-8-3.2;
1521 (C) For the period commencing January 1, 2015, and concluding at the last moment
1522 of December 31, 2015, such excise tax shall be at a rate equivalent to 75 percent of the
1523 total amount of local sales and use tax in effect in such special district that would be
1524 collected on the sale, use, storage, or consumption of energy but for the exemption in
1525 Code Section 48-8-3.2; and
1526 (D) On or after January 1, 2016, such excise tax shall be at a rate equivalent to 100
1527 percent of the total amount of local sales and use tax in effect in such special district
1528 that would be collected on the sale, use, storage, or consumption of energy but for the
1529 exemption in Code Section 48-8-3.2.
1530 (b) Any county or municipality which imposes the excise tax under this article during the
1531 phase-in period provided for in this Code section shall levy such excise tax at the amount
1532 provided for under the applicable year of the phase in. Any county or municipality which
1533 imposes such excise tax on or after January 1, 2016, shall impose it at the rate specified
1534 under subparagraph (a)(3)(D) of this Code section.
1535 (c) The excise tax levied pursuant to this article shall be imposed only at the time that sales
1536 and use tax on the sale or use of such energy would have been due and payable under Code
1537 Section 48-8-30 but for the exemption in Code Section 48-8-3.2. The excise tax shall be
1538 due and payable in the same manner as would be otherwise required under Article 1 of
1539 Chapter 8 of this title except as otherwise provided under this article. The excise tax shall
1540 be a debt of the purchaser of energy until it is paid and shall be recoverable at law in the
1541 same manner as authorized for the recovery of other debts. The dealer collecting the excise
1542 tax shall remit the excise tax to the governing authority imposing the excise tax. Every
1543 dealer subject to an excise tax levied as provided in this article shall be liable for the excise
1544 tax at the applicable rate on the charges actually collected or the amount of excise taxes
1545 collected from the purchasers, whichever is greater.
1546 (d) A county or municipality levying an excise tax as provided in this subsection shall only
1547 levy such excise tax initially by ordinance and at the equivalent rate as determined under

1548 paragraph (3) of subsection (a) of this Code section. Following such initial imposition, on
1549 or after January 1, 2016, the rate of the tax under this article shall be controlled by the
1550 maximum amount of local sales and use tax in effect in the special district, but in no event
1551 more than 2 percent; however, this 2 percent limitation shall not apply in a municipality
1552 that levies a water and sewer projects and costs tax pursuant to Article 4 of Chapter 8 of
1553 this title, in which case there shall be a 3 percent limitation. In the event the total rate of
1554 local sales and use taxes in effect in the special district decreases from 2 percent to 1
1555 percent, the rate of the excise tax under this article shall likewise be reduced at the same
1556 time such local sales and use tax rate reduction becomes effective. In the event the total
1557 rate of local sales and use taxes in effect in the special district increases from 1 percent to
1558 2 percent, the rate of the excise tax under this article shall likewise be increased at the same
1559 time such local sales and use tax rate increase becomes effective.
1560 (e) An excise tax under this article shall not be levied or collected by a county or
1561 municipality outside the territorial limits of the special district located within the county.

1562 48-13-113.
1563 Prior to the adoption of the ordinance levying an excise tax under this article, the county
1564 governing authority within a special district shall meet and confer with each of the
1565 municipalities within the special district. Any county that desires to have an excise tax
1566 under this article levied within the special district shall deliver or mail a written notice to
1567 the mayor or chief elected official in each municipality located within the special district.
1568 If the governing authority of such county does not deliver or mail such notice within 30
1569 days of the date of the written request of the mayor or chief elected official of a
1570 municipality within the special district, then such mayor or chief elected official shall
1571 deliver or mail a written notice to the mayor or chief elected official in each municipality
1572 located within the special district and to the county governing authority. Such notice shall
1573 contain the date, time, place, and purpose of a meeting at which the governing authorities
1574 of the county and of each municipality are to discuss whether or not the excise tax should
1575 levied be within the special district. The notice shall be delivered or mailed at least ten
1576 days prior to the date of the meeting. The meeting shall be held at least 30 days prior to
1577 the adoption of any ordinance levying an excise tax under this article.

1578 48-13-114.
1579 (a)(1) Following the meeting required under Code Section 48-13-113, the governing
1580 authority of the county within the special district shall enter into an intergovernmental
1581 agreement with the governing authority of each municipality wishing to participate in
1582 such excise tax that provides for the distribution of the proceeds as provided in subsection

1583 (c) of this Code section. Following the execution of such agreement, the governing
1584 authority of such county shall be authorized to adopt an ordinance levying the excise tax.
1585 (2) If a municipality elects not to participate in such excise tax by not signing such
1586 agreement, then such municipality shall not receive any proceeds from the excise tax. In
1587 such event, any proportionate share that would have been distributed to such municipality
1588 under an applicable local sales and use tax as provided in subsection (c) of this Code
1589 section shall instead be distributed to the general fund of the county.
1590 (b) The excise tax proceeds shall be allocated and distributed by the county governing
1591 authority at the end of each calendar month. Of such excise tax proceeds, an amount equal
1592 to 1 percent of the proceeds collected by the county shall be paid into the general fund of
1593 the county to defray the costs of collection and administration. The remainder of the
1594 proceeds shall be distributed in accordance with the intergovernmental agreement as
1595 provided in subsection (c) of this Code section.
1596 (c) The excise tax proceeds shall be allocated and distributed by the county governing
1597 authority within 30 days following the end of each calendar month in the manner provided
1598 in this subsection. Such proceeds shall not be subject to any use or expenditure
1599 requirements provided for under any of the local sales and use taxes but shall be authorized
1600 to be expended in the same manner as otherwise would have been required under such local
1601 sales and use taxes or may be expended for any lawful purpose. Of such excise tax
1602 proceeds:
1603 (1) If two such local sales and use taxes are in effect in the special district, an amount
1604 equal to one-half of the proceeds of the excise tax shall be distributed to the county
1605 general fund and the general fund of each participating municipality located in such
1606 county according to the same proportionate share as specified under the distribution
1607 provisions of the first local sales and use tax and an amount equal to one-half of the
1608 proceeds of the excise tax shall be distributed to the county general fund and the general
1609 fund of each participating municipality located in such county according to the same
1610 proportionate share as specified under the distribution provisions of the second local sales
1611 and use tax; or
1612 (2) If only one such local sales and use tax is in effect in the special district, then the
1613 proceeds of the excise tax shall be distributed to the county general fund and the general
1614 fund of each participating municipality located in such county according to the same
1615 proportionate share as specified under the distribution provisions of the local sales and
1616 use tax.

1617 48-13-115.
1618 Following the meeting required under Code Section 48-13-113, if the governing authority
1619 of the county within the special district refuses to enter into an intergovernmental
1620 agreement with the governing authority of each municipality wishing to participate in such
1621 excise tax during the period commencing on January 1, 2013, and concluding on December
1622 31, 2013, then the governing authority of each municipality wishing to levy the excise tax
1623 shall be authorized to adopt an ordinance levying the excise tax within the corporate limits
1624 of such municipality. If a county elects not to participate in such excise tax by not signing
1625 such agreement, then the county shall not receive any proceeds from the excise tax. The
1626 proceeds of such excise tax shall be deposited in the general fund of each municipality. If
1627 a county determines, subsequent to December 31, 2013, to commence proceedings for the
1628 imposition of the excise tax under this article, then proceedings for such imposition shall
1629 commence in the same manner as otherwise provided under Code Section 48-13-113. In
1630 that event, the excise tax levied by such municipality shall cease on the day immediately
1631 prior to the day the new tax levied by the county commences. If such municipality elects
1632 not to participate, its current excise tax under this article shall still terminate on the date
1633 specified in this Code section and it shall not receive any proceeds under the county levy.

1634 48-13-116.
1635 (a)(1) An excise tax imposed under this article shall become effective on the first day of
1636 the next succeeding calendar quarter which begins more than 80 days after the adoption
1637 date of the ordinance.
1638 (2) If services are regularly billed on a monthly basis, however, the excise tax shall
1639 become effective with respect to and the tax shall apply to services billed on or after the
1640 effective date specified in paragraph (1) of this subsection.
1641 (b) The excise tax shall cease to be imposed on the first day of the next succeeding
1642 calendar quarter which begins more than 80 days after the adoption date of an ordinance
1643 terminating the excise tax.
1644 (c) At any time no more than a single 2 percent excise tax under this article may be
1645 imposed within a special district or a municipality.
1646 (d) Following the termination of an excise tax under this article, the governing authority
1647 of a county within a special district or the mayor or chief elected official of a municipality
1648 in the special district in which an excise tax authorized by this article is in effect may
1649 initiate proceedings for the reimposition of a tax under this article in the same manner as
1650 provided in this article for initial imposition of such tax.

1651 48-13-117.
1652 The manner of payment and collection of the excise tax and all other procedures related to
1653 the tax, including, but not limited to, periodic auditing of dealers collecting and remitting
1654 the excise tax under this article, shall be as provided by each county and municipality
1655 electing to exercise the powers conferred by this article.

1656 48-13-118.
1657 As a part of the audit report required under Code Section 36-81-7, the auditor shall include,
1658 in a separate schedule, a report of the revenues pertaining to the excise tax under this
1659 article."

1660 **SECTION 5-5.**

1661 Said title is further amended by revising paragraphs (90) and (91) and enacting a new
1662 paragraph in Code Section 48-8-3, relating to exemptions from sales and use tax, as follows:
1663 "(90) The sale of electricity to a manufacturer located in this state used directly in the
1664 manufacture of a product if the direct cost of such electricity exceeds 50 percent of the
1665 cost of all materials, including electricity, used directly in the product; ~~or~~
1666 (91) The sale of prewritten software which has been delivered to the purchaser
1667 electronically or by means of load and leave; or
1668 (92)(A) For the period commencing January 1, 2012, until June 30, 2014, sales of
1669 tangible personal property used for and in the construction of a competitive project of
1670 regional significance.
1671 (B) The exemption provided in subparagraph (A) of this paragraph shall apply to
1672 purchases made during the entire time of construction of the competitive project of
1673 regional significance so long as such project meets the definition of a 'competitive
1674 project of regional significance' within the period commencing January 1, 2012, until
1675 June 30, 2014.
1676 (C) The department shall not be required to pay interest on any refund claims filed for
1677 local sales and use taxes paid on purchases made prior to the implementation of this
1678 paragraph.
1679 (D) As used in this paragraph, the term 'competitive project of regional significance'
1680 means the location or expansion of some or all of a business enterprise's operations in
1681 this state where the commissioner of economic development determines that the project
1682 would have a significant regional impact. The commissioner of economic development
1683 shall promulgate regulations in accordance with the provisions of this paragraph
1684 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 <u>in this state</u> without acquiring title to the property;

(D) Leases or rents tangible personal property for a consideration, permitting the use or possession of the property <u>in this state</u> without transferring title to the property;

(E) Maintains or ~~has~~ <u>utilizes</u> 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<u>, whether owned by such person or any other person, other than a common carrier acting in its capacity as such</u>;

(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<u>; or</u>

1792 (iii) To engage in convention and trade show activities as described in Section
1793 513(d)(3)(A) of the Internal Revenue Code, so long as such activities are the dealer's
1794 sole physical presence in this state and the dealer, including any of its representatives,
1795 agents, salespersons, canvassers, independent contractors, or solicitors, does not
1796 engage in those convention and trade show activities for more than five days, in
1797 whole or in part, in this state during any 12 month period and did not derive more than
1798 $100,000.00 of net income from those activities in this state during the prior calendar
1799 year. A retailer engaging in convention and trade show activities, as described in
1800 Section 513(d)(3)(A) of the Internal Revenue Code, is a retailer engaged in business
1801 in this state and liable for collection of the applicable sales or use tax with respect to
1802 any sale of tangible personal property occurring at the convention and trade show
1803 activities and with respect to any sale of tangible personal property made pursuant to
1804 an order taken at or during those convention and trade show activities.
1805 The exceptions provided in divisions ~~(i) and (ii)~~ (i), (ii), and (iii) of this subparagraph
1806 shall not apply to any requirements under Code Section 48-8-14;
1807 (J) Is an affiliate that sells at retail, offers for sale at retail in this state, or engages in
1808 the regular or systematic solicitation of a consumer market in this state through a
1809 related dealer located in this state unless:
1810 (i) The in-state dealer to which the affiliate is related does not engage in any of the
1811 following activities on behalf of the affiliate:
1812 (I) Advertising;
1813 (II) Marketing;
1814 (III) Sales; or
1815 (IV) Other services; and
1816 (ii) The in-state dealer to which the affiliate is related accepts the return of tangible
1817 personal property sold by the affiliate and also accepts the return of tangible personal
1818 property sold by any person or dealer that is not an affiliate on the same terms and
1819 conditions as an affiliate's return;
1820 As used in this subparagraph, the term 'affiliate' means any person that is related
1821 directly or indirectly through one or more intermediaries, controls, is controlled by, is
1822 under common control with, or is subject to the control of a dealer described in
1823 subparagraphs (A) through (I) of this paragraph or in this subparagraph;
1824 (K)(i) Makes sales of tangible personal property or services that are taxable under
1825 this chapter if a related member, as defined in Code Section 48-7-28.3, other than a
1826 common carrier acting in its capacity as such, that has substantial nexus in this state:
1827 (I) Sells a similar line of products as the person and does so under the same or a
1828 similar business name; or

1829 (II) Uses trademarks, service marks, or trade names in this state that are the same
1830 or substantially similar to those used by the person.
1831 (ii) The presumption that a person described in this subparagraph qualifies as a dealer
1832 in this state may be rebutted by showing that the person does not have a physical
1833 presence in this state and that any in-state activities conducted on its behalf are not
1834 significantly associated with the person's ability to establish and maintain a market
1835 in this state;
1836 (L)(i) Makes sales of tangible personal property or services that are taxable under this
1837 chapter if any other person, other than a common carrier acting in its capacity as such,
1838 who has a substantial nexus in this state:
1839 (I) Delivers, installs, assembles, or performs maintenance services for the person's
1840 customers within this state;
1841 (II) Facilitates the person's delivery of property to customers in this state by
1842 allowing the person's customers to pick up property sold by the person at an office,
1843 distribution facility, warehouse, storage place, or similar place of business
1844 maintained by the person in this state; or
1845 (III) Conducts any other activities in this state that are significantly associated with
1846 the person's ability to establish and maintain a market in this state for the person's
1847 sales.
1848 (ii) The presumption that a person described in this subparagraph qualifies as a dealer
1849 in this state may be rebutted by showing that the person does not have a physical
1850 presence in this state and that any in-state activities conducted on its behalf are not
1851 significantly associated with the person's ability to establish and maintain a market
1852 in this state;
1853 (M)(i) Enters into an agreement with one or more other persons who are residents of
1854 this state under which the resident, for a commission or other consideration, based on
1855 completed sales, directly or indirectly refers potential customers, whether by a link
1856 on an Internet website, an in-person oral presentation, telemarketing, or otherwise, to
1857 the person, if the cumulative gross receipts from sales by the person to customers in
1858 this state who are referred to the person by all residents with this type of an agreement
1859 with the person is in excess of $50,000.00 during the preceding 12 months.
1860 (ii) The presumption that a person described in this subparagraph is a dealer in this
1861 state may be rebutted by submitting proof that the residents with whom the person has
1862 an agreement did not engage in any activity within this state that was significantly
1863 associated with the person's ability to establish or maintain the person's market in the
1864 state during the preceding 12 months. Such proof may consist of sworn written
1865 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.

1974 (c) Section 6-1 of this Act shall become effective on October 1, 2012.
1975 (d) Part IV and Section 5-6 of this Act shall become effective on July 1, 2012.
1976 (e) Parts II and III of this Act shall become effective on January 1, 2013, and shall be
1977 applicable to all taxable years beginning on or after January 1, 2013.
1978 (f) Part I of this Act shall become effective March 1, 2013.
1979 (g) The remaining portions of this Act shall become effective on January 1, 2013.
1980 (h) Tax, penalty, and interest liabilities and refund eligibility for prior taxable years shall not
1981 be affected by the passage of this Act and shall continue to be governed by the provisions of
1982 general law as it existed immediately prior to the effective date of the relevant portion of this
1983 Act.
1984 (i) This Act shall not abate any prosecution, punishment, penalty, administrative proceedings
1985 or remedies, or civil action related to any violation of law committed prior to the effective
1986 date of the relevant portion of this Act.

1987 **SECTION 7-2.**

1988 In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared
1989 or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other
1990 sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full
1991 force and effect as if the section, subsection, sentence, clause, or phrase so declared or
1992 adjudged invalid or unconstitutional were not originally a part hereof. The General
1993 Assembly declares that it would have passed the remaining parts of this Act if it had known
1994 that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

1995 **SECTION 7-3.**

1996 All laws and parts of laws in conflict with this Act are repealed.

STATE OF GEORGIA

COUNTY OF FAYETTE

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT (the "Agreement") is made as of the ____ day of February, 2013, by and between **FAYETTE COUNTY, GEORGIA**, a political subdivision of the State of Georgia, (the "County"), **FAYETTE COUNTY SCHOOL DISTRICT**, a body corporate and politic of the State of Georgia, (the "School District") **CITY OF PEACHTREE CITY**, a municipal corporation of the State of Georgia, **CITY OF FAYETTEVILLE**, a municipal corporation of the State of Georgia, **TOWN OF TYRONE**, a municipal corporation of the State of Georgia, and **TOWN OF BROOKS**, a municipal corporation of the State of Georgia. (The municipal corporations are collectively hereafter referred to as the "Municipalities" and the County, School District and Municipalities are collectively hereafter referred to as the "Governmental Entities").

W I T N E S S E T H:

WHEREAS, the General Assembly passed an omnibus tax bill, HB 386, in the 2012 legislative session which, among other provisions, changes the tax collection/distribution procedures for motor vehicles in the State of Georgia; and

WHEREAS, beginning on March 1, 2013, there will no longer be a sales tax charged on the sale of new and used motor vehicles, rather; sales taxes applicable to both dealership and private party purchases will be replaced with a new Title Ad Valorem Tax ("TAVT") in 2013, to be in effect each and every year thereafter until enacted otherwise; and

WHEREAS, although the new TAVT will not be due every year and ad valorem taxes are being eliminated on motor vehicles purchased after March 1, 2013, such vehicle owners will continue to pay ad valorem taxes on the vehicles they currently own under the previously enacted methodology for assessing motor vehicle taxes; and

WHEREAS, the respective county tax commissioners/collectors in the State of Georgia will be required to collect ad valorem taxes and the TAVT, and make distribution to the governmental entities authorized to receive such tax distributions in accordance with provisions of HB 386 and other applicable laws of the State of Georgia.

NOW, THEREFORE, in consideration of the mutual benefits flowing to each of the respective parties hereto and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties to this Intergovernmental Agreement agree as follows:

1. The methodology for collections/distributions of ad valorem taxes for all titled and non-titled vehicles owned as of February 28, 2013, will remain the same as in previous years for the calendar year 2013 and every year thereafter until such vehicles are sold or re-titled. These ad valorem tax collections will continue to be distributed to the Governmental Entities in the same manner as was previously required under applicable provisions of Georgia Laws.

2. The State of Georgia's portion of ad valorem taxes and the TAVT will be remitted to the State in accordance with provisions of Georgia Laws. The remainder of ad valorem taxes and the TAVT collected will be distributed to the Governmental Entities within thirty (30) days following the end of each calendar month as follows:

(a) Every month beginning with March 2013, and every month of every year thereafter, ad valorem tax collections/distributions will be compared to the ad valorem tax collections/distributions for the applicable month in the year 2012 (the "base tax month and

year"), as each applies to the respective Governmental Entities. If the ad valorem tax collections are sufficient, a distribution will be made each month to the respective Governmental Entities equal in amount to that received in the applicable base tax month and year 2012.

(b) In the event post March 1, 2013 ad valorem tax collections/distributions for any of the Governmental Entities are less than the ad valorem tax collections/distributions received as compared to the applicable base tax months, such occurrence will be identified as a shortfall for any given Governmental Entity.

(c) The TAVT will first be distributed to the respective Governmental Entities to cover any shortfalls in the ad valorem tax collections/distributions for any month of any year the TAVT year is distributed. The amount distributed to each Governmental Entity having a shortfall shall be equal in proportion (to be calculated as a percentage) comparing the amount of TAVT collected to the total recognized ad valorem shortfall for each of the respective Governmental Entities.

(d) In the event the TAVT collections are less than the total shortfalls, then the amount of the shortfall as to each of the Governmental Entities will be carried forward and added to any shortfalls identified in the following month(s).

(e) In the event the tax year 2013 (and each year thereafter) ad valorem tax collections/distributions exceed the base tax year ad valorem tax collections/distributions, and there are no shortfalls or carry-over shortfalls from prior months, the TAVT will then be distributed as provided in Section 3 below.

3. Following the distribution of the TAVT collections to cover any and all shortfalls in ad valorem tax collections/distributions, the remaining TAVT collections will be distributed in the following manner:

(a) An amount equal to the first one-third (1/3) of the TAVT collection overage will be distributed to the School District.

(b) An amount equal to the second one-third (1/3) of the TAVT collection overage will be distributed to the County and the respective Municipalities in the same percentage amounts as the County and each Municipality is receiving under a distribution certificate for the joint county and municipal sales and use tax authorized under provisions of Georgia Code, Article 2 of Chapter 8 of Title 48 in effect (the Local Option Sales Tax ("LOST")).

(c) An amount equal to the third one-third (1/3) of the TAVT collection overage will be distributed to the County and the Municipalities in the same manner as specified under the intergovernmental agreement as otherwise authorized under the provisions of Georgia Code, Part 1 of Article 3 of Chapter 8 of Title 48 (the Special Purpose Local Option Sales Tax ("SPLOST") previously in effect). If a SPLOST is not renewed within twelve (12) months following its expiration, this one-third (1/3) amount shall be distributed to the County and Municipalities in same percentage amounts as the County and each Municipality is receiving under the LOST distribution certificate.

4. In the event any dispute arises under this Agreement, the aggrieved party shall notify the Fayette County Tax Commissioner promptly in writing of its contentions and submit its claim. The notice contemplated herein shall be distributed to each party to this Intergovernmental Agreement, who will then be allowed thirty (30) days to respond to the aggrieved party's contentions and claim. All parties hereto shall work diligently to resolve any dispute, the absence of which shall be resolved through binding mediation in accordance with the rules promulgated by the Office of the 6th District Alternative Dispute Resolution Program.

5. All notices given pursuant to this Agreement shall be mailed or delivered to the following addresses, or such other address, as a party may designate in writing:

County: County Administrator, 140 Stonewall Ave., West, Fayetteville, GA 30214

School District: Superintendent, P.O. Box 879, 210 Stonewall Ave., Fayetteville, GA 30214

City of Peachtree City: City Manager, 151 Willowbend Rd., Peachtree City, GA 30269

City of Fayetteville: City Manager, 240 Glynn St., South, Fayetteville, GA 30214

Town of Tyrone: Town Manager, 881 Senoia Rd. Tyrone, GA 30290

Town of Brooks: Town Manager, P.O. Box 96, 113 Church St., Brooks, GA 30205

6. This Agreement contains the entire agreement by and between the parties hereto, and all agreements, oral or otherwise, between the parties not embodied in this Intergovernmental Agreement shall be of no force or effect.

7. This Agreement shall not be modified or amended in any respect except by a written agreement executed by each of the respective parties hereto in the same manner as this Agreement is executed.

8. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused their respective duly authorized elected official to execute, seal and deliver this Intergovernmental Agreement, all as of the day and year first above written.

[All Signatures are Contained on the Following Page]

ATTEST:

_____

(Affix Seal)

FAYETTE COUNTY, GEORGIA

By:_____(SEAL)
Steve Brown, Chairman
Fayette County Board of Commissioners

ATTEST:

_____

(Affix Seal)

FAYETTE COUNTY SCHOOL DISTRICT

By:_____(SEAL)
Marion Key, Chairperson
Fayette County Board of Education

ATTEST:

_____

(Affix Seal)

CITY OF PEACHTREE CITY

By:_____(SEAL)
Don Haddix, Mayor

ATTEST:

_____

(Affix Seal)

CITY OF FAYETTEVILLE

By:_____(SEAL)
Greg Clifton , Mayor

ATTEST:

_____

(Affix Seal)

TOWN OF TYRONE

By:_____(SEAL)
Eric Dial, Mayor

ATTEST:

_____

(Affix Seal)

TOWN OF BROOKS

By:_____(SEAL)
Daniel Langford, Jr., Mayor