

House Bill 434

By: Representatives Martin of the 47<sup>th</sup>, Royal of the 171<sup>st</sup>, Burns of the 157<sup>th</sup>, Benfield of the 85<sup>th</sup>, Fludd of the 66<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and  
2 taxation, so as to provide for a regional sales and use tax for transportation; to provide for  
3 definitions; to provide for the levy and collection of such tax; to provide for procedures,  
4 conditions, and limitations; to provide for expenditure of proceeds; to provide for collection  
5 and administration; to provide for powers, duties, and authority of the state revenue  
6 commissioner; to amend Part 1 of Article 2 of Chapter 10 of Title 32 of the Official Code of  
7 Georgia Annotated, relating to the Georgia State Road and Tollway Authority, so as to  
8 provide for a Georgia Regional Transportation Fund to finance transportation projects; to  
9 provide for related matters; to provide for an effective date; to repeal conflicting laws; and  
10 for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
14 amended by revising subsection (b) of Code Section 48-8-6, relating to limitations on the  
15 maximum amount of local sales and use taxes, and inserting in lieu thereof a new subsection  
16 (b) to read as follows:

17 "(b) There shall not be imposed in any jurisdiction in this state or on any transaction in this  
18 state local sales taxes, local use taxes, or local sales and use taxes in excess of 2 percent.  
19 For purposes of this prohibition, the taxes affected are any sales tax, use tax, or sales and  
20 use tax which is levied in an area consisting of less than the entire state, however  
21 authorized, including such taxes authorized by or pursuant to constitutional amendment,  
22 except that the following taxes shall not count toward or be subject to such 2 percent  
23 limitation:

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

1 (2) Any tax levied for purposes of a metropolitan area system of public transportation,  
 2 as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page  
 3 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d)  
 4 of the Constitution; and the laws enacted pursuant to such constitutional amendment;  
 5 provided, however, that the exception provided for under this paragraph shall only apply  
 6 in a county in which a tax is being imposed under subparagraph (a)(1)(D) of Code  
 7 Section 48-8-111 in whole or in part for the purpose or purposes of a water capital outlay  
 8 project or projects, a sewer capital outlay project or projects, a water and sewer capital  
 9 outlay project or projects, water and sewer projects and costs as defined under paragraph  
 10 (3) of Code Section 48-8-200, or any combination thereof and with respect to which the  
 11 county has entered into an intergovernmental contract with a municipality, in which the  
 12 average waste-water system flow of such municipality is not less than 85 million gallons  
 13 per day, allocating proceeds to such municipality to be used solely for water and sewer  
 14 projects and costs as defined under paragraph (3) of Code Section 48-8-200. The  
 15 exception provided for under this paragraph shall apply only during the period the tax  
 16 under said subparagraph (a)(1)(D) is in effect. The exception provided for under this  
 17 paragraph shall not apply in any county in which a tax is being imposed under Article 2A  
 18 of this chapter;

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

23 (4) A ~~sales and use~~ tax levied under Article 4 or Article 5 of this chapter.

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

## 27 SECTION 2.

28 Said title is further amended by adding a new article at the end of Chapter 8, to be designated  
 29 Article 5, to read as follows:

### 30 "ARTICLE 5

31 48-8-300.

32 As used in this article, unless the context clearly indicates otherwise, the term:

33 (1) 'Authority' means the Georgia Regional Transportation Authority provided for by  
 34 Chapter 32 of Title 50.

1 (2) 'Building and construction materials' means all building and construction materials,  
2 supplies, fixtures, or equipment, any combination of such items, and any other leased or  
3 purchased articles when the materials, supplies, fixtures, equipment, or articles are to be  
4 utilized or consumed during construction or are to be incorporated into construction work  
5 pursuant to a bona fide written construction contract.

6 (3) 'Combination' or 'combination of counties' means two or more contiguous counties  
7 that comprise a region.

8 (4) 'Cost of project' or 'project costs' means the cost of construction, including without  
9 limitation relocation or adjustments of utilities; the cost of all lands, properties, rights,  
10 easements, and franchises acquired; relocation expenses; the cost of all machinery and  
11 equipment necessary for the operation of the project, the cost of engineering, legal  
12 expenses, plans and specifications, and other expenses necessary or incident to  
13 determining the feasibility or practicability of the project; administrative expenses; and  
14 such other expenses as may be necessary or incident to the construction of any project,  
15 the placing of the same in operation, or the maintenance and operation of the same.

16 (5) 'Dealer' means a dealer as defined in paragraph (3) of Code Section 48-8-2.

17 (6) 'Project' means existing or future public transportation systems, including without  
18 limitation: (A) one or more roads or bridges or a system of roads, bridges, and tunnels or  
19 maintenance and operations thereof, with access limited or unlimited, and such buildings,  
20 structures, parking areas, appurtenances, and facilities related thereto, including but not  
21 limited to approaches, cross streets, roads, bridges, tunnels, and avenues of access for  
22 such system; (B) any program for mass public transportation or mass public  
23 transportation facilities or maintenance and operations thereof and such buildings,  
24 structures, parking areas, appurtenances, and facilities related thereto, including, but not  
25 limited to, approaches, cross streets, roads, bridges, tunnels, avenues of access, buses,  
26 trains, or other transit vehicles, transit stops, and trackage and other materials and  
27 improvements necessary or useful for such facilities; (C) any program for overall  
28 administration and planning, including, but not limited to, audits, project management,  
29 and oversight; and (D) any facility for 'other transportation purposes' as defined in  
30 paragraph (18) of Code Section 32-1-3.

31 (7) 'Region' means:

32 (A) Any two or more contiguous counties that agree to join in a regional transportation  
33 funding plan in accordance with the provisions of this article; and

34 (B) All counties within the jurisdiction of the Georgia Regional Transportation  
35 Authority pursuant to the provisions of subsection (a) of Code Section 50-32-10 on July  
36 1, 2007; provided, however, that after the adoption of a regional congestion mitigation  
37 and traffic relief plan as provided for by Code Section 48-8-302 or Code Section

1 48-8-303, 'region' shall mean the counties comprising the region as identified in such  
2 plan.

3  
4 48-8-301.

5 (a) Pursuant to the authority granted by Article IX, Section IV, Paragraph I of the  
6 Constitution of this state, the governing authorities of counties in which a sales and use tax  
7 is approved as provided for by this article may levy such a sales and use tax within their  
8 respective counties according to the procedures provided for by this article and for the  
9 purpose of funding projects and project costs. Such tax may be imposed within the territory  
10 of each county by ordinance or resolution of the governing authority of that county, subject  
11 to referendum as provided for by this article. Such ordinance or resolution may also  
12 approve the intergovernmental contract provided for by this article. Any such tax imposed  
13 under this article shall be at a rate to be set by the governing authority of the county not to  
14 exceed 1 percent and shall terminate upon the expiration of the intergovernmental contract.  
15 No such tax imposed under this article shall be repealed prior to termination of such  
16 intergovernmental contract. No county shall impose at any time sales and use taxes under  
17 this article aggregating in excess of 1 percent.

18 (b) Pursuant to the authority granted by Article IX, Section IV, Paragraph I of the  
19 Constitution of this state, the governing authorities of counties in which a local motor fuel  
20 sales tax is approved as provided for by this article may levy such a local motor fuel sales  
21 tax within their respective counties according to the procedures provided for by this article  
22 and for the purpose of funding projects and project costs. Such tax may be imposed within  
23 the territory of each county by ordinance or resolution of the governing authority of that  
24 county, subject to referendum as provided for by this article. Such ordinance or resolution  
25 may also approve the intergovernmental contract provided for by this article. Any such tax  
26 imposed under this article shall be at a rate to be set by the governing authority of the  
27 county by ordinance or resolution, not to exceed 5 percent if the sales and use tax provided  
28 for by this article is imposed in such county as provided for in this article and not to exceed  
29 10 percent if no such sales and use tax is imposed, and shall terminate upon the expiration  
30 of the intergovernmental contract. No such tax imposed under this article shall be repealed  
31 prior to termination of such intergovernmental contract. No county shall impose at any  
32 time motor fuel sales taxes under this article exceeding in the aggregate 5 percent if the  
33 sales and use tax provided for by this article is imposed in such county as provided for in  
34 this article and exceeding in the aggregate 10 percent if no such sales and use tax is  
35 imposed.

36 (c) Additional intergovernmental contracts may be negotiated and approved and additional  
37 sales and use taxes or local motor fuel sales taxes not in violation of the aggregate limits

1 imposed by this article may be imposed subsequently in connection therewith either within  
2 a region or within another region that includes all or part of such region in accordance with  
3 the terms of this article; provided, however, that the previously existing intergovernmental  
4 contract shall be unaffected unless the parties thereto agree to a modification of such  
5 intergovernmental contract concerning the proceeds of such second or additional tax.

6 (d) The counties in which either one of the taxes authorized by this article is in effect and  
7 which are parties to an intergovernmental contract authorized by this article may, while  
8 such tax is in effect, enter into a successor intergovernmental contract and adopt a  
9 resolution or ordinance calling for the reimposition of such tax as authorized by this article  
10 upon the termination of the tax then in effect; and referendums may be held for this  
11 purpose while such tax is in effect. Proceedings for such reimposition shall be in the same  
12 manner as proceedings for the initial imposition of the tax. Such newly authorized tax shall  
13 not be imposed until the expiration of the tax then in effect; provided, however, that in the  
14 event of emergency conditions under which any county is unable to conduct a referendum  
15 so as to continue the tax then in effect without interruption, the commissioner may, if  
16 feasible administratively, waive the limitations of this Code section to the minimum extent  
17 necessary so as to permit the reimposition of a tax, if otherwise approved as required under  
18 this Code section, without interruption, upon the expiration of the tax then in effect.

19 48-8-302.

20 (a) The governing authorities of any combination of counties not included in a region as  
21 defined by subparagraph (B) of paragraph (7) of Code Section 48-8-300, except as  
22 otherwise provided in this article, may agree to convene a traffic relief and regional  
23 investment conference to negotiate an intergovernmental contract and submit such contract,  
24 together with a plan for funding such contract though the imposition of one or more of the  
25 taxes provided for by this article, to referendums in their respective jurisdictions as  
26 provided for by this article.

27 (b) Prior to October 1, 2007, or within 120 days of the effective date of any action of the  
28 authority adding counties to its jurisdiction, the board of directors of the authority shall  
29 identify, by resolution of the board, a region including counties within its jurisdiction  
30 pursuant to the provisions of subsection (a) of Code Section 50-32-10, and shall make a  
31 determination, by majority vote of the board after public hearing thereon, whether the  
32 regional transportation improvement plan or plans applicable to such region is adequately  
33 funded to achieve congestion mitigation goals applicable to such region. If the board of  
34 the authority determines that such funding is inadequate to achieve such goals, then each  
35 county within the region identified shall be required to participate in a traffic relief and  
36 regional investment conference as provided for by this article. Any county sharing a

1 common border with any county within the region shall be invited to join and may, by  
 2 ordinance or resolution of the governing authority of such county, join such region and  
 3 participate in such regional congestion mitigation conference and shall thereafter be subject  
 4 to the provisions of this article. Any county within the authority's jurisdiction that is not  
 5 identified as part of a region and required to participate in a traffic relief and regional  
 6 investment conference or, that, after such conference, has not imposed the maximum  
 7 amount of taxes permitted by this article, may participate in a separate traffic relief and  
 8 regional investment conference pursuant to subsection (a) of this Code section.

9 (c) The participants in a traffic relief and regional investment conference shall consist of:

10 (1) A member of the governing authority of each county within the region, to be  
 11 designated by the chairperson or chief executive officer of the governing authority of the  
 12 county;

13 (2) A member of the governing authority of the most populous municipality wholly or  
 14 partially within the region, to be designated by the mayor of such municipality;

15 (3) A mayor from each county within the region, to be selected and designated by a  
 16 caucus of mayors from each municipality wholly or partially within such county;  
 17 provided however, that where a member of a municipal governing authority is a member  
 18 of the conference pursuant to paragraph (2) of this subsection, no additional member from  
 19 such municipality shall be appointed;

20 (4) A member to be appointed by the chairperson or chief executive officer of each  
 21 county within the region, who shall be an elector of such county not holding public  
 22 office;

23 (5) A member of the State Transportation Board representing all or part of any counties  
 24 within the region, to be designated by the chairperson of such board;

25 (6) The general manager or executive director of each of the two largest public transit  
 26 operators in the region, as determined by average daily boardings, if such public transit  
 27 operators operate wholly or partially within the region; and

28 (7) When any part of the region falls within the jurisdiction of the authority, then a  
 29 member of the board of the authority, to be designated by the chairperson of the  
 30 authority.

31 (d) The regional traffic relief and regional investment conference shall convene in an open  
 32 and public conference no later than 90 days following the formation of a region, provided,  
 33 however, that in a region as defined by subparagraph (B) of paragraph (7) of Code Section  
 34 48-8-300 in any part of which a tax provided for by this article has been imposed, a traffic  
 35 relief and regional investment conference shall be convened not later than 180 days prior  
 36 to the expiration of such tax.

1 (e) After the first meeting of the traffic relief and regional investment conference provided  
2 for by this Code section, but prior to the first scheduled negotiation meeting provided for  
3 by subsection (b) of Code Section 48-8-303, any county within the region may withdraw  
4 from the regional negotiation process by two-thirds' majority vote of the governing  
5 authority thereof, but such county upon such withdrawal shall not thereafter impose any  
6 tax or taxes under this article except as otherwise provided in this article. If a majority of  
7 the counties within a region formed pursuant to subsection (b) of this Code section  
8 withdraw from the regional negotiation process, then the provisions of Code Section  
9 48-8-305 shall be applicable.

10 48-8-303.

11 (a) The duties of the traffic relief and regional investment conference shall be to negotiate  
12 and adopt the draft intergovernmental contract provided for by this article. Adoption of the  
13 draft intergovernmental contract shall require the affirmative vote of two-thirds of the  
14 members of the conference. If after three recorded votes thereon the conference is unable  
15 to adopt a draft intergovernmental contract, or if the conference is unable to agree upon the  
16 terms of a draft intergovernmental contract within one year of the first meeting of the  
17 committee, then the conference shall stand dissolved and the process for the adoption and  
18 approval of such intergovernmental contract shall be deemed terminated; provided,  
19 however, that upon such dissolution and termination in a region defined by subsection (b)  
20 of Code Section 48-8-302, the provisions of Code Section 48-8-305 shall be applicable.

21 (b) The traffic relief and regional investment conference shall be hosted by the  
22 metropolitan planning organization within which the majority of the counties in the region  
23 are located, which shall be responsible for providing staffing and support for such  
24 conference and for the further negotiation of the traffic relief and regional investment plan.  
25 In the event that the majority of counties within a region are not located within a  
26 metropolitan planning organization, then the most populous county in the region shall be  
27 responsible for providing staffing and support for such conference and for the further  
28 negotiation of the traffic relief and regional investment plan. At the first conference  
29 meeting the participants shall elect a chairperson and vice chairperson to preside over such  
30 negotiations. Thereafter, such participants or their designees shall meet on the call of the  
31 chairperson and not less than once a month for the purpose of negotiating the traffic relief  
32 and regional investment plan required by this article. All such meetings shall be open and  
33 public and subject to the provisions of Chapter 14 of Title 50, and not less than two public  
34 hearings shall be held prior to the adoption of any draft regional plan.

35 (c) The traffic relief and regional investment conference shall draft a traffic relief and  
36 regional investment plan in the form of an intergovernmental contract as provided for by

1 this article. Such intergovernmental contract shall specify that the counties entering into  
2 such contract agree that certain projects may be jointly constructed or maintained within  
3 the region for the mutual benefit of the counties within the region and for the benefit of  
4 each county within the region. By majority vote of the regional traffic relief and regional  
5 investment conference participants, a region may be divided into two or more regions  
6 consisting of not less than two contiguous counties, and such regions shall thereafter  
7 convene conferences and otherwise proceed as provided by this article, and the conference  
8 of the original region shall stand adjourned. Such intergovernmental contract shall further  
9 specify:

10 (1) The counties comprising the region;

11 (2) The projects and project costs to be funded and a project schedule;

12 (3) The entity or entities responsible for administration and execution of each project,  
13 including without limitation design, engineering, construction management, right of way  
14 acquisition, operation, and maintenance of each project;

15 (4) For projects undertaken for the mutual benefit of two or more counties within the  
16 region, the proportions or allocations of project costs to be borne by each county within  
17 the region;

18 (5) The membership and powers of a taxpayer oversight committee;

19 (6) Criteria and procedures for the amendment or deletion of projects and project costs  
20 in case of changing priorities, technology, or other factors by vote of the taxpayer  
21 oversight committee;

22 (7) Criteria and procedures for the addition of projects by amendment of the  
23 intergovernmental contract by the respective parties thereto;

24 (8) The term of the intergovernmental contract, to be stated in calendar years;

25 (9) An agreed date for the proposed referendums for the approval of the  
26 intergovernmental contract by the electors of the counties within the region, which date  
27 shall be not later than four years after the formation of the region and a date on which  
28 special elections may be held as otherwise provided by law; and

29 (10) A list of major projects undertaken pursuant to the intergovernmental contract to be  
30 identified on the referendum ballot provided for by this article.

31 (d) A combination of counties may form a region for the purpose of initiating a traffic  
32 relief and regional investment conference in a region formed pursuant to subsection (b) of  
33 Code Section 48-8-302 only upon the conclusion of the deliberations of the traffic relief  
34 and regional investment conference of the region so formed, and the occurrence of the  
35 latter of:

1 (1) The dissolution of such conference pursuant to the terms of this article and the failure  
2 of the board of the authority to adopt an intergovernmental contract pursuant to the terms  
3 of Code Section 48-8-305; or

4 (2) Sixty days following the date of the vote on the regional referendum as provided for  
5 by this article.

6 48-8-304.

7 (a) Upon the adoption of the intergovernmental contract by a regional conference or the  
8 authority, as provided for by this article, such intergovernmental contract shall be  
9 submitted to the governing authorities of the counties within the region as provided by this  
10 article.

11 (b) Within 60 days of receipt of the intergovernmental contract from the regional traffic  
12 relief and regional investment committee, the governing authority of each county within  
13 the region may nullify such county's participation in the intergovernmental contract by the  
14 vote of two-thirds of the members of the governing authority on an ordinance or resolution  
15 for that purpose. If the intergovernmental contract is not nullified within that time, the  
16 governing authority shall be required to submit such intergovernmental contract to a  
17 referendum as provided for by this article.

18 (c) Any elector wishing to submit a petition for approval of such intergovernmental  
19 contract shall provide written notice to the governing authority within the 60 day period  
20 provided for by subsection (b) of this Code section. After such notice, should the  
21 governing authority of such county nullify the intergovernmental contract either before or  
22 after such notice, any elector shall have 120 days from the expiration of the 60 day period  
23 provided for by subsection (b) of this Code section to petition to compel participation of  
24 the county in such intergovernmental contract. At any time prior to the expiration of such  
25 120 days, participation of the county in such plan may be initiated by a petition filed with  
26 the judge of the probate court of the county containing the signatures of at least 10 percent  
27 of the electors registered to vote in the last general election in such county, which petition  
28 may be in multiple originals and shall specifically set forth the summary of such plan  
29 prepared by the conference and call for the participation of the county in such plan. The  
30 judge of the probate court shall determine the validity of such petition within 60 days of  
31 its being filed with the judge of the probate court. In the event the judge of the probate  
32 court determines that such petition is valid, it shall be his or her duty to so notify the  
33 governing authority of the county and the authority, and the effect of such petition shall be  
34 to override any nullification of the intergovernmental contract and to require the  
35 submission of such intergovernmental contract to a referendum as provided for by this  
36 article.

1 (d) In the event that the intergovernmental contract is nullified by one or more of the  
2 counties in the region but is not nullified in at least two other counties within such region,  
3 the traffic relief and regional investment conference shall reconvene, but those members  
4 representing counties that nullified the intergovernmental agreement and the members  
5 representing municipalities wholly within such counties shall cease to be members of the  
6 conference. The conference may thereafter approve amendments to the intergovernmental  
7 contract as provided for by majority vote of the conference; provided, however, that where  
8 such contract was adopted by the board of the authority pursuant to the provisions of Code  
9 Section 48-8-305, such contract shall be reconsidered by, and amendments thereto may be  
10 approved by, the board of the authority. The intergovernmental contract, if so amended,  
11 shall be submitted to the governing authorities of the counties in which the  
12 intergovernmental contract was not nullified and upon adoption by majority vote of the  
13 governing authority of each of such counties the intergovernmental contract shall be  
14 submitted to referendum as provided for by this article. Should the amended  
15 intergovernmental contract not be adopted by majority vote of the governing authority of  
16 each of such counties, the process for the adoption and approval of such intergovernmental  
17 contract shall be deemed terminated.

18 48-8-305.

19 (a) In the event that this Code section is applicable to a region pursuant to the terms of  
20 Code Sections 48-8-302 or 48-8-303, then the authority shall, after an affirmative majority  
21 vote of its board, be responsible for developing the traffic relief and regional investment  
22 plan in conjunction with the metropolitan planning organization and the intergovernmental  
23 contract provided for by Code Section 48-8-302. The authority shall develop a project list  
24 for such plan that maximizes to the extent practicable the relief of traffic congestion and  
25 investment in long-term mobility in the region. The authority shall prepare a summary of  
26 such plan for inclusion on petitions as provided for by this Code section. Such plan shall  
27 otherwise conform to the requirements for the draft regional congestion mitigation and  
28 traffic relief plan provided for by Code Section 48-8-303. The traffic relief and regional  
29 investment plan shall be adopted by majority vote of the board of the authority in the form  
30 of an intergovernmental contract between the counties in the region not later than six  
31 months after the provisions of this Code section become applicable.

32 (b) Upon the adoption of the intergovernmental contract by the authority as provided for  
33 by this Code section, such intergovernmental contract shall be submitted to the governing  
34 authorities of the counties within the region as provided by this article. Such  
35 intergovernmental contract shall either be adopted or nullified by such governing authority  
36 pursuant to Code Section 48-8-304.

1 48-8-306.

2 (a) Unless nullified as provided by this article, the governing authority of each county  
3 within a region shall, after the adoption of an intergovernmental contract as provided for  
4 by this article, adopt an ordinance or resolution calling for the submission of such  
5 intergovernmental contract, as so adopted, to referendum as provided for by this article and  
6 providing that such intergovernmental contract shall stand adopted by such county upon  
7 approval in such referendum. Such ordinance or resolution shall also approve the  
8 imposition, subject to the referendum provided for by this article, of one or more of the  
9 taxes provided for by this article within the county for the purpose of funding the projects  
10 and project costs provided for by such draft intergovernmental contract, but the resolutions  
11 or ordinances of each county within the region need not be conditioned upon the adoption  
12 of the same taxes or rate of taxation by each county in the region; provided, however, that  
13 the taxes and rate of taxation so approved by each such county, subject to referendum, shall  
14 be reasonably calculated to defray the expenses to be incurred by the county pursuant to  
15 the terms of the intergovernmental contract over the term of such contract.

16 (b) The ordinance or resolution provided for by this article shall specify:

17 (1) The term of the intergovernmental contract, to be stated in calendar years;

18 (2) The type and rate of tax to be imposed pursuant to this article if approved as provided  
19 for by this article and the estimated amount of revenues to be derived from such taxes  
20 over the term of the intergovernmental contract;

21 (3) The list of major projects undertaken pursuant to the intergovernmental contract to  
22 be identified on the referendum ballot provided for by this article, except as otherwise  
23 provided for by this article; and

24 (4) The date of the referendum for the approval of the contract and tax or taxes by the  
25 electors of the county, which shall be the date specified in the intergovernmental contract.

26 48-8-307.

27 (a) Whenever the governing authorities of counties within a region are required to submit  
28 to the electors of the counties comprising such region the question of whether the  
29 intergovernmental contract and either or both taxes authorized by this article should be  
30 approved, each such governing authority shall notify the election superintendent of its  
31 respective jurisdiction by forwarding to the superintendent a copy of the ordinance or  
32 resolution of the governing authority calling for the approval of such intergovernmental  
33 contract and the imposition of the tax or taxes. A copy of such notification shall be  
34 forwarded to the election superintendent of each other county within the region. Upon  
35 receipt of such notification by each of the election superintendents of each county within  
36 the region, it shall be the duty of each election superintendent to issue the call for an

1 election for the purpose of submitting the question of the imposition of the tax to the voters  
 2 of his or her jurisdiction for approval or rejection. The election superintendents shall set  
 3 the date of the election for the date specified in the resolutions, and all such elections in all  
 4 counties within the region shall be conducted on the same date. The election  
 5 superintendents shall cause the date and purpose of the elections to be published once a  
 6 week for four weeks immediately preceding the date of the election in the official organ  
 7 of their respective jurisdictions.

8 (b) The ballot shall have written or printed thereon the following:

9 '( ) YES Shall this region implement a plan for traffic relief and regional  
 10 transportation investment, including the major projects listed below, as  
 11 ( ) NO provided for from time to time by an intergovernmental contract between  
 12 and among the Counties of \_\_\_\_\_, to be funded through local special  
 13 purpose taxes in such counties, including (a local sales and use tax ) (and)  
 14 (a local motor fuel tax) in the County of \_\_\_\_\_?

The following major projects are among those that will be funded and  
 constructed under the plan: \_\_\_\_\_.'

15 (c) All persons desiring to vote in favor of approving the intergovernmental contract and  
 16 levying the tax or taxes shall vote 'Yes,' and those persons opposed to such  
 17 intergovernmental contract and levying the tax or taxes shall vote 'No.' If more than  
 18 one-half of the votes cast within the region are in favor of approving the intergovernmental  
 19 contract and levying the tax or taxes, then the intergovernmental contract shall be approved  
 20 and the tax or taxes shall be levied in each county within the region in accordance with this  
 21 article and the terms of the resolution or ordinance of such county. If one-half or fewer of  
 22 the votes cast within the region are in favor of approving the intergovernmental contract  
 23 and levying the tax or taxes, or if the referendum provided for by this article is not held in  
 24 any county within the region as provided by this article, then the intergovernmental  
 25 contract shall not be approved and the tax or taxes may not be levied; provided, however,  
 26 that in the event of emergency conditions as provided for by subsection (c) of Code Section  
 27 48-8-301 or in the event of emergency conditions under which any county within a region  
 28 is unable to conduct the referendum on the agreed upon date, such referendum shall be  
 29 conducted in such county on the next practicable special election date provided by law and  
 30 the determination of whether more than one-half of the votes within the region are in favor  
 31 of approving the intergovernmental contract and levying such tax or taxes shall be  
 32 postponed pending the results of such election. It shall be the duty of each election  
 33 superintendent to hold and conduct such election under the same rules and regulations as  
 34 govern special elections. It shall be their further duty to canvass the returns, declare the  
 35 result of the election, and certify the result to the Secretary of State and to the

1 commissioner. The expense of the election within each county shall be borne by the  
2 county.

3 48-8-308.

4 Any county imposing a tax or taxes pursuant to the terms of this article may enter into  
5 financing agreements with the Georgia Regional Transportation Investment Fund provided  
6 for by Code Section 32-10-12 for the financing of project costs. The Georgia Regional  
7 Transportation Investment Fund is specifically authorized to finance projects and project  
8 costs by entering into notes, loans, other obligations or instruments, or other financing  
9 arrangements as provided for by such Code section, with any such county, singly or in  
10 combination with other such counties, and counties entering into such financing  
11 arrangements may utilize or pledge the proceeds of any tax levied pursuant to this article  
12 for the purpose of defraying the cost, in whole or in part, of such financial assistance. The  
13 terms of any such financing arrangements shall be as provided for by the parties thereto;  
14 provided, however, that where under the terms of any such financial arrangement all or part  
15 of the proceeds of any tax levied pursuant to the terms of this article are pledged for the  
16 repayment of any notes or other obligations payable to the Georgia Regional  
17 Transportation Investment Fund, such financial arrangements shall provide that in the event  
18 that timely payments are not made by a county pursuant to the terms of such arrangements,  
19 all proceeds of any such tax collected by the commissioner shall be applied first to such  
20 county's liability to the Georgia Regional Transportation Investment Fund.

21 48-8-309.

22 If the imposition of a sales and use tax is approved as provided for by this article, the tax  
23 shall be imposed on the first day of the next succeeding calendar quarter which begins  
24 more than 70 days after the date of the election at which the tax was approved by the  
25 voters. If a local motor fuel sales tax is so approved, it shall become effective on the same  
26 date but shall first be collected in the following month for sales in the prior month as  
27 provided for by Code Section 48-9-8. With respect to services which are regularly billed  
28 on a monthly basis, however, the resolution or ordinance imposing the tax shall become  
29 effective with respect to and the tax shall apply to the first regular billing period coinciding  
30 with or following the effective date specified in this Code section. A certified copy of the  
31 ordinance or resolution imposing the tax shall be forwarded to the commissioner so that it  
32 will be received within five business days after certification of the election results.

33

1 48-8-310.

2 (a) The members of the taxpayer oversight committee provided for by the  
3 intergovernmental contract provided for by this article shall serve without compensation  
4 except for ordinary and necessary expenses incurred in the discharge of the functions of the  
5 committee. No public officer or employee of the United States, this state, any other state,  
6 or any political subdivision thereof nor any person holding any civil appointment or office  
7 thereof shall be eligible to appointment to the taxpayer oversight committee.

8 (b) The powers of the taxpayer oversight committee shall be set forth in the  
9 intergovernmental contract and shall include:

10 (1) Providing for audit of the expenditure of the taxes provided for by this article on the  
11 projects provided for by the terms of the intergovernmental contract; and

12 (2) Amendment or deletion of projects or the cost of projects, as provided for by the  
13 terms of the intergovernmental contract; provided, however, that no projects shall be  
14 added to the list of projects set forth in the intergovernmental contract except by  
15 amendment of the intergovernmental contract by the parties thereto.

16 48-8-311.

17 (a) Except as otherwise provided in this article, a sales and use tax imposed under this  
18 article shall correspond to the tax imposed by Article 1 of this chapter. No item or  
19 transaction which is not subject to taxation under Article 1 of this chapter shall be subject  
20 to a tax imposed under this article, except that a tax imposed under this article shall apply  
21 to:

22 (1) Sales of motor fuels as that term is defined by Code Section 48-9-2 unless a local  
23 motor fuel sales tax is imposed as provided for by this article;

24 (2) The sale of natural or artificial gas used directly in the production of electricity which  
25 is subsequently sold, notwithstanding paragraph (70) of Code Section 48-8-3; and

26 (3) The furnishing for value to the public of any room or rooms, lodgings, or  
27 accommodations which is subject to taxation under Article 3 of Chapter 13 of this title,  
28 except where such taxation is imposed pursuant to paragraph (5) of subsection (a) of  
29 Code Section 48-13-51.

30 A sales and use tax levied pursuant to this article shall be exclusively administered and  
31 collected by the commissioner for the use and benefit of each county imposing the tax.  
32 Such administration and collection shall be accomplished in the same manner and subject  
33 to the same applicable provisions, procedures, and penalties provided in Article 1 of this  
34 chapter; provided, however, that all moneys collected from each taxpayer by the  
35 commissioner shall be applied first to such taxpayer's liability for taxes owed the state; and  
36 provided, further, that the commissioner may rely upon a representation by or in behalf of

1 the county or the Secretary of State that such a tax has been validly imposed, and the  
 2 commissioner and the commissioner's agents shall not be liable to any person for collecting  
 3 any such tax which was not validly imposed. Dealers shall be allowed a percentage of the  
 4 amount of the tax due and accounted for and shall be reimbursed in the form of a deduction  
 5 in submitting, reporting, and paying the amount due if such amount is not delinquent at the  
 6 time of payment. The deduction shall be at the rate and subject to the requirements  
 7 specified under subsections (b) through (f) of Code Section 48-8-50.

8 (b) Except as otherwise provided in this article, a local motor fuel sales tax imposed under  
 9 this article shall correspond to the tax imposed by Code Section 48-9-14 and shall be  
 10 calculated and prepaid as provided by that Code section, but such tax shall be administered  
 11 and collected for the use and benefit of the county imposing such tax. The commissioner  
 12 shall adopt rules and regulations pursuant to which the tax shall be collected in each  
 13 calendar month based upon the sales in the previous month in counties imposing such tax  
 14 as disclosed by the reports submitted pursuant to Code Section 48-9-8.

15  
 16 48-8-312.

17 Each sales and use tax return remitting sales and use taxes collected under this article shall  
 18 separately identify the location of each retail establishment at which any of the sales and  
 19 use taxes remitted were collected and shall specify the amount of sales and the amount of  
 20 taxes collected at each establishment for the period covered by the return in order to  
 21 facilitate the determination by the commissioner that all sales and use taxes imposed by this  
 22 article are collected and distributed according to situs of sale.

23 48-8-313.

24 The proceeds of the taxes collected by the commissioner in each county under this article  
 25 shall be disbursed as soon as practicable after collection as follows:

- 26 (1) One percent of the amount collected shall be paid into the general fund of the state  
 27 treasury in order to defray the costs of administration; and
- 28 (2) The remaining proceeds of the tax shall be distributed to the governing authority of  
 29 the county imposing the tax.

30 48-8-314.

31 Where a local sales or use tax has been paid with respect to tangible personal property by  
 32 the purchaser either in another local tax jurisdiction within the state or in a tax jurisdiction  
 33 outside the state, the tax may be credited against the sales and use tax authorized to be  
 34 imposed by this article upon the same property. If the amount of sales or use tax so paid  
 35 is less than the amount of the sales and use tax due under this article, the purchaser shall

1 pay an amount equal to the difference between the amount paid in the other tax jurisdiction  
2 and the amount due under this article. The commissioner may require such proof of  
3 payment in another local tax jurisdiction as the commissioner deems necessary and proper.  
4 No credit shall be granted, however, against the tax imposed under this article for tax paid  
5 in another jurisdiction if the tax paid in such other jurisdiction is used to obtain a credit  
6 against any other local sales and use tax levied in the county or in a special district which  
7 includes the county; and taxes so paid in another jurisdiction shall be credited first against  
8 the tax levied under Article 2 of this chapter, if applicable, then against the tax levied under  
9 Article 3 of this chapter, if applicable, then against the tax levied under Article 2A of this  
10 chapter, if applicable, and then against the tax levied under this article.

11 48-8-315.

12 No sales and use tax provided for in this article shall be imposed upon the sale of tangible  
13 personal property which is ordered by and delivered to the purchaser at a point outside the  
14 geographical area of the county in which the tax is imposed regardless of the point at which  
15 title passes, if the delivery is made by the seller's vehicle, United States mail, or common  
16 carrier or by private or contract carrier licensed by the Federal Highway Administration or  
17 the Georgia Public Service Commission.

18 48-8-316.

19 No sales and use tax provided for in this article shall be imposed upon the sale or use of  
20 building and construction materials when the contract pursuant to which the materials are  
21 purchased or used was advertised for bid prior to the voters' approval of the levy of the tax  
22 and the contract was entered into as a result of a bid actually submitted in response to the  
23 advertisement prior to approval of the levy of the tax.

24 48-8-317.

25 The commissioner shall have the power and authority to promulgate such rules and  
26 regulations as shall be necessary for the effective and efficient administration and  
27 enforcement of the collection of the taxes authorized to be imposed by this article.

28 48-8-318.

29 The taxes authorized by this article shall be in addition to any other local sales and use tax.  
30 The imposition of any other local sales and use tax within a county, municipality, or special  
31 district shall not affect the authority of a county to impose the tax authorized by this article  
32 and the imposition of the tax authorized by this article shall not affect the imposition of any

1 otherwise authorized local sales and use tax within the county, municipality, or special  
2 district."

3 **SECTION 3.**

4 Part 1 of Article 2 of Chapter 10 of Title 32 of the Official Code of Georgia Annotated,  
5 relating to the Georgia State Road and Tollway Authority, is amended by adding thereto a  
6 new Code Section 32-10-78 to read as follows:

7 "32-10-78.

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

9 (1) 'Eligible costs' shall have the same meaning as 'project costs' as defined in Article 5  
10 of Chapter 8 of Title 48.

11 (2) 'Eligible project' means a 'project' as defined in Article 5 of Chapter 8 of Title 48.

12 (3) 'Fund' means the Georgia Regional Transportation Investment Fund.

13 (4) 'Qualified county' means any county levying a tax pursuant to the provisions of  
14 Article 5 of Chapter 8 of Title 48.

15 (b) In addition to and cumulative of the other powers of the authority, the authority shall  
16 have the power to assist in financing eligible projects by providing loans and other  
17 financial assistance to qualified counties for constructing and improving eligible projects,  
18 including highway and transportation facilities necessary for public purposes and economic  
19 development. The authority shall establish and maintain a revolving account for the  
20 purpose of funding eligible projects within qualified counties, to be known as the Georgia  
21 Regional Transportation Investment Fund. The authority may utilize all of the powers  
22 otherwise granted by this part for purposes of administering and managing the fund.  
23 Without limiting the generality of the foregoing, the board is specifically authorized to  
24 issue bonds for the purposes of the fund, in the same general manner provided in Part 2 of  
25 this article; provided, however, that unless otherwise provided for by resolution of the  
26 board the security for such bonds shall consist of the obligations of qualified counties under  
27 notes or other instruments issued by the fund to such qualified counties, and no other assets  
28 of the authority shall be pledged as security for the repayment of such bonds. The authority  
29 is authorized to enter into contracts, arrangements, and agreements with qualified counties  
30 and other persons and execute and deliver all financing agreements and other instruments  
31 necessary or convenient to the exercise of the powers granted in this Code section.

32 (c) The fund is not authorized or empowered to be or to constitute a bank or trust company  
33 within the jurisdiction or under the control of this state or an agency of it or the  
34 Comptroller of the Currency or the Treasury Department of the United States or a bank,  
35 banker, or dealer in securities within the meaning of, or subject to the provisions of, any  
36 securities, securities exchange, or securities dealers' law of the United States or of this

1 state. The fund shall be subject to the provisions of Chapter 13 of Title 50, the 'Georgia  
2 Administrative Procedure Act.'

3 (d) The fund may be capitalized by all lawful sources as determined appropriate by the  
4 board, including without limitation all moneys paid or credited to the fund, by contract or  
5 otherwise, payments of principal and interest on loans or other financial assistance made  
6 from the fund, and interest earnings which may accrue from the investment or reinvestment  
7 of the fund's moneys.

8 (e) It is specifically provided that qualified counties may use or pledge the proceeds of any  
9 sales and use tax or local motor fuel tax which may be hereafter made available by law for  
10 the purposes of this Code section, including without limitation the funding of eligible  
11 projects and contributions, donations, and deposits to the fund.

12 (f) Neither the proceeds of the state motor fuel taxes nor any other state revenue source  
13 currently dedicated to any particular purpose or program shall be diverted to the fund.

14 (g) If a qualified county fails to collect and remit in full all amounts due to the fund on the  
15 date these amounts are due under the terms of any note or other obligation of such qualified  
16 county, the authority shall notify the appropriate state officials who may withhold all or a  
17 portion of the funds of the state and all funds administered by the state and its agencies,  
18 boards, and instrumentalities allotted or appropriated to the qualified county and apply an  
19 amount necessary to the payment of the amount due; provided, however, that nothing  
20 contained in this Code section mandates the withholding of funds which would violate  
21 contracts to which the state is a party, the requirements of federal law imposed on the state,  
22 or judgments of a court binding on the state."

#### 23 **SECTION 4.**

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

#### 26 **SECTION 5.**

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