

House Bill 1218

By: Representatives Cole of the 125<sup>th</sup>, Ralston of the 7<sup>th</sup>, Keen of the 179<sup>th</sup>, and Roberts of the 154<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To enact the "Transportation Investment Act of 2010"; to provide for a short title; to amend  
2 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,  
3 so as to provide for certain powers and duties of the Department of Transportation; to  
4 provide for certain responsibilities of the director of planning; to provide for allocation  
5 formula development and implementation of the State Public Transportation Fund; to change  
6 certain provisions regarding the balancing and allocation of state and federal funds; to  
7 suspend restrictions on the use by public transit authorities of local sales and use tax  
8 proceeds; to amend Title 48 of the Official Code of Georgia Annotated, relating to revenue  
9 and taxation, so as to provide for legislative findings and intent; to provide for the creation  
10 of special districts; to provide for a regional transportation sales and use tax in such special  
11 districts; to provide for definitions; to provide for certain powers of the State Road and  
12 Tollway Authority; to provide for an exemption from the cap on the imposition of local sales  
13 and use taxes; to provide for the development of an investment list of projects; to provide for  
14 a referendum; to provide for the rate and manner of imposition of such tax; to provide for  
15 collection and administration of such tax; to provide for use of the proceeds of such tax; to  
16 provide for returns; to provide for distribution and expenditure of proceeds; to provide for  
17 annual reporting; to provide for Citizens Review Panels; to provide for tax credits; to provide  
18 for certain exemptions; to provide for the effect on any local sales and use taxes; to provide  
19 for judicial actions; to amend Title 50 of the Official Code of Georgia Annotated, relating  
20 to state government, so as to revise certain provisions relative to the Department of  
21 Transportation's allocation of funds; to provide for related matters; to provide for an effective  
22 date; to repeal conflicting laws; and for other purposes.

23 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

24 **SECTION 1.**

25 This Act shall be known and may be cited as the "Transportation Investment Act of 2010."

26 **SECTION 2.**

27 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,  
28 is amended by revising subsection (b) of Code Section 32-2-43, relating to the  
29 responsibilities of the director of planning, as follows:

30 "(b) The director of planning's principal responsibility shall be the development of  
31 transportation plans, including the development of the state-wide strategic transportation  
32 plan and state-wide transportation improvement program and other comprehensive plans  
33 pursuant to the provisions of Code Section 32-2-3 and Code Section 32-2-22, strategic  
34 transportation plans pursuant to the provisions of Code Section 32-2-41.1, and benchmarks  
35 and value engineering studies pursuant to the provisions of Code Section 32-2-41.2, in  
36 consultation with the board, the Governor, and the commissioner. The director shall also  
37 be responsible for the duties and activities assigned to the director in Article 5 of Chapter  
38 8 of Title 48. The director shall be the director of the Planning Division of the department  
39 and shall possess, exercise, and perform all the duties, powers, and authority which may  
40 be vested in such division by law and are necessary or appropriate for such purpose, except  
41 those duties, powers, and authority which are expressly reserved by law to the board or the  
42 commissioner."

43 **SECTION 3.**

44 Said title is further amended in Code Section 32-5-27, relating to allocation formula  
45 development and implementation, by revising subsection (f) as follows:

46 "(f) Information pertaining to all funds received and expended by, through, or from the  
47 department, including but not limited to project numbers, let dates, estimated costs, actual  
48 costs, estimated completion date, status, priority ranking, congressional, House, and Senate  
49 districts, regions pursuant to Code Section 32-5-30, vendor names, contract amounts, and  
50 other pertinent contract information, shall be published on the website of the department  
51 as data in structured format. As used in this subsection, 'structured format' means data that  
52 is presented in machine readable format."

53 **SECTION 4.**

54 Said title is further amended by revising Code Section 32-5-30, relating to allocation of state  
55 and federal funds, as follows:

56 "32-5-30.

57 (a)(1) The total of expenditures from the State Public Transportation Fund under  
58 paragraphs (4), (5), and (6) of Code Section 32-5-21 plus budgeted expenditures of  
59 federal funds appropriated to the department less budgeted expenditures of proceeds from  
60 the sale of general obligation bonds authorized by the General Assembly and approved

61 by the Governor, not including any federal funds specifically designated for projects that  
 62 have been earmarked by a member of Congress in excess of appropriated funds, shall be  
 63 budgeted by the department ~~over two successive budgeting periods~~ every decade.

64 ~~(2) The first Such budgeting period shall commence immediately following redistricting~~  
 65 ~~of congressional districts July 1, 2011, and shall be for a duration of five ten years. The~~  
 66 ~~second budgeting period shall continue until the beginning of the budgeting period~~  
 67 ~~following the next redistricting of congressional districts after each decennial census;~~  
 68 ~~provided, however, if the congressional districts have been redrawn prior to a new~~  
 69 ~~decennial census, but after the approval of an existing map based on the last decennial~~  
 70 ~~census, the budgeting period shall include two successive budgeting periods. The first~~  
 71 ~~budgeting period shall end upon approval of the new redistricting and the second~~  
 72 ~~budgeting period shall commence from the date such redrawn congressional districts have~~  
 73 ~~been approved and shall continue until the next budgeting period following the next~~  
 74 ~~redistricting of congressional districts. Thereafter all budgeting periods shall be for ten~~  
 75 ~~years.~~

76 (2) The department shall budget such expenditures for the state-wide asset improvement  
 77 program using the allocation formula provided in Code Section 32-5-27 such that at the  
 78 end of such budgeting period funding obligations equivalent to at least 80 percent of such  
 79 total program for such budgeting period shall have been divided ~~equally~~ among the  
 80 ~~congressional districts~~ regions in this state as defined in subsection (f) of Code Section  
 81 50-8-4, as those ~~districts~~ regions existed at the commencement of such budgeting period,  
 82 for public road and other public transportation purposes in such ~~districts~~ regions. The  
 83 expenditures budgeted to each region shall be equivalent to the percentage of the region's  
 84 total population compared to the population of the state as a whole. Population shall be  
 85 determined using the most recently completed United States decennial census. If the  
 86 results from the most recently completed United States decennial census are not final  
 87 upon commencement of the budgeting period, budgeting shall be based upon the most  
 88 recent year of official population estimates from the United States Bureau of the Census.  
 89 Upon finalization of the United States decennial census results, the department shall  
 90 revise expenditures budgeted to each region if necessary to comply with this paragraph.

91 (3) The department shall budget such expenditures for the state-wide transportation asset  
 92 management program using the allocation formula provided in Code Section 32-5-27  
 93 such that at the end of such budgeting period funding obligations equivalent to at least  
 94 80 percent of such program for such budgeting period shall have been divided among  
 95 such regions in the state as defined in subsection (f) of Code Section 50-8-4, as those  
 96 regions existed at the commencement of such budgeting period, for public road and other  
 97 public transportation purposes in such districts. The expenditures budgeted to each

98 region shall be equivalent to the percentage of the total lane miles of state routes that is  
 99 contained within such region per the most recent annual count by the department as  
 100 submitted to the Federal Highway Administration compared to the total lane miles in the  
 101 state as a whole.

102 (b)(1) The board may upon approval by two-thirds of its membership authorize a  
 103 reduction in the share of funds allocated pursuant to this Code section to any such  
 104 ~~congressional-district~~ region if such supermajority of the board determines that such  
 105 ~~district~~ region does not have sufficient projects available for expenditure of funds within  
 106 that ~~district~~ region to avoid lapsing of appropriated funds.

107 (2) In the event that funding becomes available to the department which could not  
 108 otherwise be allocated among ~~congressional-districts~~ regions due to the allocation  
 109 requirements of this Code section, the board may upon approval by a majority of its  
 110 membership authorize a waiver of such allocation requirements to the extent necessary  
 111 to allow the expenditure of such funding, and any project, projects, or portion thereof  
 112 undertaken with such additional funding shall be in addition to those projects funded in  
 113 accordance with the allocation requirements of this Code section in the fiscal year in  
 114 which the additional funds became available or any subsequent year; provided, however,  
 115 that any such waiver shall be valid only for the fiscal year in which it is granted, and any  
 116 funds budgeted pursuant to a waiver granted by this paragraph which were not obligated  
 117 by the end of such fiscal year shall not be obligated in violation of the allocation  
 118 requirements of this Code section in a subsequent fiscal year unless a majority of the  
 119 board again authorizes a waiver of the allocation requirements in such subsequent fiscal  
 120 year.

121 (c) Provisions of this Code section may be waived pursuant to subsection (b) of Code  
 122 Section 32-5-1 only upon approval by two-thirds of the membership of the board."

## 123 **SECTION 5.**

124 Said title is further amended by revising Code Section 32-5-31, relating to submission of  
 125 yearly reports, as follows:

126 "32-5-31.

127 In each calendar year, the board shall provide to the Governor, Lieutenant Governor, and  
 128 Speaker of the House of Representatives a written report detailing the allocation of funding  
 129 obligations among ~~congressional-districts~~ regions pursuant to Code Section 32-5-30 for the  
 130 fiscal year ending June 30 of that same calendar year. Such report shall include without  
 131 limitation the annual funding obligations and the projected expenditures of funds for the  
 132 ~~five-year~~ ten-year period and any and all documents or information indicating how the  
 133 department intends to allocate the applicable state and federal funds among ~~congressional~~

134 ~~districts~~ regions as required by Code Section 32-5-30 or a detailed explanation of why the  
135 department is unable to allocate such funds as required."

136 **SECTION 6.**

137 Said title is further amended by adding a new Code section immediately following Code  
138 Section 32-9-12, to be designated Code Section 32-9-13, to read as follows:

139 "32-9-13.

140 Provisions in all laws, whether general or local, including but not limited to the  
141 Metropolitan Atlanta Rapid Transit Authority Act of 1965 approved March 10, 1965 (Ga.  
142 L. 1965, p. 2243), as amended, that set forth restrictions on the use by public transit  
143 authorities of annual proceeds from local sales and use taxes shall be suspended for the  
144 period beginning January 1, 2010, and ending December 31, 2012, and there shall be no  
145 restriction on the use of the proceeds of such taxes during this period."

146 **SECTION 7.**

147 Said title is further amended in Code Section 32-10-63, relating to the powers and duties of  
148 the State Road and Tollway Authority, by striking "and" at the end of paragraph (14), by  
149 revising paragraph (15), and by adding a new paragraph to read as follows:

150 "(15) To exercise the duties and activities assigned to the authority in Article 5 of  
151 Chapter 8 of Title 48; and

152 (16) To do all things necessary or convenient to carry out the powers expressly given in  
153 this article."

154 **SECTION 8.**

155 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
156 amended by revising subsection (b) of Code Section 48-8-6, relating to limitations on local  
157 imposition of certain taxes, as follows:

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

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

167 (2) Any tax levied for purposes of a metropolitan area system of public transportation,  
 168 as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page  
 169 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d)  
 170 of the Constitution; and the laws enacted pursuant to such constitutional amendment;  
 171 provided, however, that the exception provided for under this paragraph shall only apply  
 172 in a county in which a tax is being imposed under subparagraph (a)(1)(D) of Code  
 173 Section 48-8-111 in whole or in part for the purpose or purposes of a water capital outlay  
 174 project or projects, a sewer capital outlay project or projects, a water and sewer capital  
 175 outlay project or projects, water and sewer projects and costs as defined under paragraph  
 176 ~~(3)~~(4) of Code Section 48-8-200, or any combination thereof and with respect to which  
 177 the county has entered into an intergovernmental contract with a municipality, in which  
 178 the average waste-water system flow of such municipality is not less than 85 million  
 179 gallons per day, allocating proceeds to such municipality to be used solely for water and  
 180 sewer projects and costs as defined under paragraph ~~(3)~~(4) of Code Section 48-8-200. The  
 181 exception provided for under this paragraph shall apply only during the period the tax  
 182 under said subparagraph (a)(1)(D) is in effect. The exception provided for under this  
 183 paragraph shall not apply in any county in which a tax is being imposed under Article 2A  
 184 of this chapter;

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

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

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

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

194 **SECTION 9.**

195 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
 196 amended by adding a new article in Chapter 8 to read as follows:

197 "ARTICLE 5

198 48-8-240.

199 The local governments of the State of Georgia are of vital importance to the state and its  
 200 citizens. The state has an essential public interest in promoting, developing, sustaining, and

201 assisting local governments. The General Assembly finds that the design and construction  
202 of transportation projects is a critical local government service for which adequate funding  
203 is not presently available. Many transportation projects cross multiple jurisdictional  
204 boundaries and must be coordinated in their design and construction. The General  
205 Assembly finds that the most efficient means to coordinate and fund such projects is  
206 through the creation of special districts that correspond with the boundaries of existing  
207 regional commissions. The purpose of this article is to provide for special districts that will  
208 enable the coordinated design and construction of transportation projects that will develop  
209 and promote the essential public interests of the state and its citizens at the state, regional,  
210 and local levels. The General Assembly intends through the creation of such special  
211 districts to enable the citizens within each district to decide in a referendum whether to  
212 authorize the imposition of a regional transportation sales and use tax to fund the projects  
213 on an investment list collaboratively developed by the affected local governments and the  
214 state. This article shall be construed liberally to achieve its purpose. This article is enacted  
215 pursuant to the authority granted the General Assembly in the Constitution of the State of  
216 Georgia, including, but not limited to, the authority provided in Article IX, Section II,  
217 Paragraph VI.

218 48-8-241.

219 (a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the  
220 Constitution, there are created within this state 12 special districts. The geographical  
221 boundary of each special district shall correspond with and shall be coterminous with the  
222 geographical boundary of the applicable region of the 12 regional commissions provided  
223 for in subsection (f) of Code Section 50-8-4.

224 (b) When the imposition of a special district sales and use tax is authorized according to  
225 the procedures provided in this article within a special district, subject to the requirement  
226 of referendum approval and the other requirements of this article, a special district sales  
227 and use tax shall be imposed within the special district for a period of eight years which tax  
228 shall be known as the regional transportation sales and use tax.

229 (c) Any tax imposed under this article shall be at the rate of 1 percent. Except as to rate,  
230 a tax imposed under this article shall correspond to the tax imposed by Article 1 of this  
231 chapter. No item or transaction which is not subject to taxation under Article 1 of this  
232 chapter shall be subject to a tax imposed under this article, except that a tax imposed under  
233 this article shall apply to sales of motor fuels as that term is defined by paragraph (9) of  
234 Code Section 48-9-2 and shall be applicable to the sale of food and beverages as provided  
235 for in division (57)(D)(i) of Code Section 48-8-3.

236 48-8-242.

237 As used in this article, the term:

238 (1) 'Authority' means the State Road and Tollway Authority provided for in Chapter 32  
 239 of Title 50.

240 (2) 'Cost of project' means:

241 (A) All costs of acquisition, by purchase or otherwise, construction, assembly,  
 242 installation, modification, renovation, extension, rehabilitation, operation, or  
 243 maintenance incurred in connection with any project of the special district or any part  
 244 thereof;

245 (B) All costs of real property or rights in property, fixtures, or personal property used  
 246 in or in connection with or necessary for any project of the special district or for any  
 247 facilities related thereto, including but not limited to the cost of all land, interests in  
 248 land, estates for years, easements, rights, improvements, water rights, and connections  
 249 for utility services; the cost of fees, franchises, permits, approvals, licenses, and  
 250 certificates; the cost of securing any such franchises, permits, approvals, licenses, or  
 251 certificates; the cost of preparation of any application therefor; and the cost of all  
 252 fixtures, machinery, equipment, furniture, and other property used in or in connection  
 253 with or necessary for any project of the special district;

254 (C) All costs of engineering, surveying, planning, environmental assessments, financial  
 255 analyses, and architectural, legal, and accounting services and all expenses incurred by  
 256 engineers, surveyors, planners, environmental scientists, fiscal analysts, architects,  
 257 attorneys, accountants, and any other necessary technical personnel in connection with  
 258 any project of the special district;

259 (D) All expenses for inspection of any project of the special district;

260 (E) All fees of any type charged to the special district in connection with any project  
 261 of the special district;

262 (F) All expenses of or incidental to determining the feasibility or practicability of any  
 263 project of the special district;

264 (G) All costs of plans and specifications for any project of the special district;

265 (H) All costs of title insurance and examinations of title with respect to any project of  
 266 the special district;

267 (I) Repayment of any loans for the advance payment of any part of any of the  
 268 foregoing costs, including interest thereon and any other expenses of such loans;

269 (J) Administrative expenses of the special district and such other expenses as may be  
 270 necessary or incidental to any project of the special district or the financing thereof or  
 271 the placing of any project of the special district in operation; and

272 (K) The establishment of a fund or funds or such other reserves as the authority may  
273 approve with respect to the financing and operation of any project of the special district.  
274 Any cost, obligation, or expense incurred for any of the purposes specified in this  
275 paragraph shall be a part of the cost of the project of the special district and may be paid  
276 or reimbursed as otherwise authorized by this article.

277 (3) 'County' means any county created under the Constitution or laws of this state.

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

279 (5) 'Director' means the director of planning provided for in Code Section 32-2-43.

280 (6) 'LARP factor' means the sum of one-fifth of the ratio between the population of a  
281 local government and the total population of the special district in which such local  
282 government is located plus four-fifths of the ratio between the paved centerline road  
283 miles in the local government and the total paved centerline road miles in the special  
284 district in which such local government is located.

285 (7) 'Local government' means any municipal corporation, county, or consolidated  
286 government created by the General Assembly or pursuant to the Constitution and laws  
287 of this state.

288 (8) 'Metropolitan planning organization' or 'MPO' means the policy board of an  
289 organization created and designated to carry out the metropolitan transportation planning  
290 process as defined in 23 C.F.R. Section 450.

291 (9) 'Municipal corporation' means any incorporated city or town in this state.

292 (10) 'Project' means, without limitation, any new or existing roads, bridges, bus and rail  
293 mass transit systems, freight and passenger rail, pedestrian facilities, bike lanes, airports,  
294 ports, and all activities and structures useful and incident to providing, operating, and  
295 maintaining the same.

296 (11) 'Regional transportation roundtable' means a conference of the local governments  
297 of a special district created pursuant to this article held at a centralized location within the  
298 district as chosen by the director for the purpose of approving the director's criteria and  
299 recommending the investment list for the special district. The regional transportation  
300 roundtable shall consist of two representatives from each county, including the  
301 chairperson of the county commission and one mayor selected by the mayors of the  
302 county. If a county has more than 50 percent of its population residing in municipal  
303 corporations, such county shall have an additional representative as selected by the  
304 mayors of the county. The regional transportation roundtable shall appoint five  
305 representatives from among its members to serve as an executive committee. The  
306 executive committee shall not have more than one member from the same county.

307 (12) 'State-wide strategic transportation plan' means the official state-wide transportation  
308 plan as defined in paragraph (6) of subsection (a) of Code Section 32-2-22.

309 (13) 'State-wide transportation improvement program' means a state-wide prioritized  
310 listing of transportation projects as defined in paragraph (7) of subsection (a) of Code  
311 Section 32-2-22.

312 (14) 'Transportation improvement program' means a prioritized listing of transportation  
313 projects as defined in paragraph (8) of subsection (a) of Code Section 32-2-22.

314 48-8-243.

315 (a) On or before August 15, 2010, the director shall contact the local governments and any  
316 MPO's within each special district across the state to provide criteria for the development  
317 of the investment list of projects. The establishment of such criteria shall comport with the  
318 investment policies provided in subsection (a) of Code Section 32-2-41.1 and the  
319 state-wide strategic transportation plan. The criteria shall include performance goals,  
320 allocation of investments in alignment with performance, and execution of projects. The  
321 state fiscal economist, in conjunction with the department, shall for each special district  
322 develop an estimate of the proceeds of the regional transportation sales and use tax,  
323 including a reasonable range of anticipated growth. The director shall include such  
324 estimates and ranges in the criteria for developing the investment list. Any local  
325 government or MPO desiring to submit comments on the draft criteria shall make such  
326 submission to the director no later than September 30, 2010. On or before November 10,  
327 2010, the local governments for each special district shall select representatives for the  
328 district's regional transportation roundtable and shall provide the names of such  
329 representatives to the director. The director shall consult with any MPO for each special  
330 district in finalizing the district criteria in a written report on or before November 15, 2010.  
331 Such report shall also include notice of the date, time, and location of the first regional  
332 transportation roundtable for each special district for the purpose of approving the district  
333 criteria and appointing members of the executive committee for each special district. Such  
334 approval and appointments shall be enacted by a majority vote of the representatives  
335 present at the roundtable meeting. The director shall promptly deliver the report to the  
336 local governments and any MPO within each special district and to the members of the  
337 General Assembly.

338 (b) With regard to any area of a special district that is not part of an MPO, following  
339 receipt of the report provided for in subsection (a) of this Code section, and after receiving  
340 comments, if any, from members of the General Assembly whose districts lie wholly or  
341 partly within such area, the local governments in such area may submit projects that  
342 comport with the special district's investment criteria to the director to assemble a draft  
343 investment list for such special district. With regard to any area of a special district that  
344 is part of an MPO, following receipt of the report provided for in subsection (a) of this

345 Code section, and after receiving comments, if any, from members of the General  
346 Assembly whose districts lie wholly or partly within such area and any local government  
347 located within such area, the MPO may submit projects that comport with the special  
348 district's investment criteria to the director to assemble a draft investment list for such  
349 special district. The draft investment list for each special district shall comport with the  
350 investment criteria as approved by such district. Following consultation with the executive  
351 committee for each regional transportation roundtable, the director shall deliver a draft of  
352 the investment list to such local governments, MPO's, and members of the General  
353 Assembly for each special district. The director shall include in such delivery notice of the  
354 date, time, and location of each district's final regional transportation roundtable. The local  
355 governments, MPO's, and members of the General Assembly may submit comments on the  
356 draft investment list to the director no later than two weeks prior to the date of the final  
357 regional transportation roundtable for such special district. At the final regional  
358 transportation roundtable, the draft investment list and any submitted comments shall be  
359 considered and the roundtable may negotiate amendments to the draft list prior to approval  
360 by majority vote of the representatives present at the roundtable. The approved investment  
361 list shall be provided to the director. On or before October 15, 2011, the director shall  
362 deliver such list to the local governments, MPO's, and members of the General Assembly  
363 for each special district. If a roundtable does not approve the original draft investment list  
364 or an amended draft investment list on or before October 15, 2011, the director shall deliver  
365 the original draft investment list to the local governments, MPO's, and members of the  
366 General Assembly for each special district. Such investment list shall include:

- 367 (1) The specific transportation projects to be funded;  
368 (2) The anticipated schedule of such project;  
369 (3) The approximate cost of such projects; and  
370 (4) The estimated amount of net proceeds to be raised by the tax including the 10 percent  
371 of proceeds to be distributed to local governments pursuant to subsection (e) of Code  
372 Section 48-8-249.

373 48-8-244.

374 (a) Simultaneously with the director's delivery of the investment list in accordance with  
375 subsection (b) of Code Section 48-8-243, the director shall deliver a notice to the election  
376 superintendents of each county within the respective special districts. Upon receipt of the  
377 notice, the election superintendents shall issue the call for an election for the purpose of  
378 submitting the question of the imposition of the regional transportation tax to the voters  
379 within each special district. The election superintendents shall issue the call and shall  
380 conduct the election in the manner authorized under Code Section 21-2-540. The first

381 election shall be held on the date of the first presidential preference primary following the  
 382 effective date of this article. The election superintendents shall cause the date and purpose  
 383 of the election to be published once a week for four weeks immediately preceding the date  
 384 of the election in the official organs of their respective counties.

385 (b) The ballot submitting the question of the imposition of the regional transportation tax  
 386 authorized by this article to the voters within each special district shall have written or  
 387 printed thereon the following:

388 '( ) YES     Shall a special 1 percent sales and use tax be imposed in the special  
 389 district consisting of \_\_\_\_\_ Counties for a period of eight years and for the  
 390 ( ) NO     raising of not more than an estimated amount of \$ \_\_\_\_\_ for the purpose  
 391 of transportation?'

392 (c) All persons desiring to vote in favor of imposing the tax shall vote 'Yes' and all persons  
 393 opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast  
 394 throughout the entire special district are in favor of imposing the tax, then the tax shall be  
 395 imposed as provided in this article; otherwise the tax shall not be imposed and the question  
 396 of imposing the tax shall not again be submitted to the voters of the special district until  
 397 after 24 months immediately following the month in which the election was held; provided,  
 398 however, that if an election date authorized under Code Section 21-2-540 occurs during the  
 399 24 month period immediately following the month in which such election was held, the  
 400 question of imposing the tax may be submitted to the voters of the special district on such  
 401 date. The election superintendents shall hold and conduct the election under the same rules  
 402 and regulations as govern special elections. The superintendents shall canvass the returns,  
 403 declare the result of the election, and certify the result to the Secretary of State and to the  
 404 commissioner. The expense of the election in each county within each special district shall  
 405 be paid from county funds of each county.

406 48-8-245.

407 (a) If the imposition of the regional transportation tax is approved at the special election,  
 408 the tax shall be imposed on the first day of the next succeeding calendar quarter which  
 409 begins more than 80 days after the date of the election at which the tax was approved by  
 410 the voters. With respect to services which are regularly billed on a monthly basis,  
 411 however, the tax shall become effective with respect to and the tax shall apply to services  
 412 billed on or after the effective date specified in the previous sentence.

413 (b) The tax shall cease to be imposed on the earliest of the following dates:

414 (1) On the final day of the eight-year period of time specified for the imposition of the  
 415 tax; or

416 (2) As of the end of the calendar quarter during which the commissioner determines that  
417 the tax will have raised revenues sufficient to provide to the special district net proceeds  
418 equal to or greater than the amount specified as the estimated amount of net proceeds to  
419 be raised by the regional transportation tax.

420 (c)(1) No more than a single 1 percent tax under this article may be imposed at any time  
421 within a special district.

422 (2) Upon the passage by the General Assembly of a local Act and the adoption of  
423 resolutions by the governing bodies of a majority of the counties within a special district  
424 in which a tax authorized by this article is in effect, a special election may be held for the  
425 reimposition of the tax while the tax is in effect. Proceedings for the development of an  
426 investment list and for the reimposition of a tax shall be in the same manner as  
427 proceedings for the initial imposition of the tax, but the newly authorized tax shall not be  
428 imposed until the expiration of the tax then in effect; provided, however, that in the event  
429 of emergency conditions under which a county within a special district is unable to  
430 conduct a referendum so as to continue the tax then in effect without interruption, the  
431 commissioner may, if feasible administratively, waive the limitations of subsection (a)  
432 of this Code section to the minimum extent necessary so as to permit the reimposition of  
433 a tax, if otherwise approved as required under this Code section, without interruption,  
434 upon the expiration of the tax then in effect.

435 (3) Following the expiration of a tax under this article, or following a special election in  
436 which voters in a special district voted against imposing the tax, upon the passage by the  
437 General Assembly of a local Act and the adoption of resolutions by the governing bodies  
438 of a majority of the counties within a special district, a special election may be held for  
439 the imposition of a tax under this article in the same manner as provided in this article for  
440 the initial imposition of such tax. In the event such subsequent election is to be held on  
441 the date of a presidential preference primary, the development of the investment list for  
442 such special district shall follow the dates established in Code Section 48-8-243 with the  
443 years adjusted appropriately, and such schedule shall be posted on the authority's website  
444 within 30 days of the later of the authority's receipt of notice from the county governing  
445 bodies or of the passage of the local Act by the General Assembly. In the event such  
446 subsequent election is not to be held on the date of a presidential preference primary, it  
447 shall be held on the date of a November election as defined in paragraph (15) of Code  
448 Section 21-2-2, and the authority shall adopt a schedule for the development of the  
449 investment list allowing time periods similar to those established in Code Section  
450 48-8-243, and such schedule shall be posted on the authority's website as provided above.

451 48-8-246.

452 A tax levied pursuant to this article shall be exclusively administered and collected by the  
453 commissioner for the use and benefit of the special district imposing the tax. Such  
454 administration and collection shall be accomplished in the same manner and subject to the  
455 same applicable provisions, procedures, and penalties provided in Article 1 of this chapter;  
456 provided, however, that all moneys collected from each taxpayer by the commissioner shall  
457 be applied first to such taxpayer's liability for taxes owed the state; and provided, further,  
458 that the commissioner may rely upon a representation by or in behalf of the special district  
459 or the Secretary of State that such a tax has been validly imposed, and the commissioner  
460 and the commissioner's agents shall not be liable to any person for collecting any such tax  
461 which was not validly imposed. Dealers shall be allowed a percentage of the amount of  
462 the tax due and accounted for and shall be reimbursed in the form of a deduction in  
463 submitting, reporting, and paying the amount due if such amount is not delinquent at the  
464 time of payment. The deduction shall be at the rate and subject to the requirements  
465 specified under subsections (b) through (f) of Code Section 48-8-50.

466 48-8-247.

467 Each sales tax return remitting taxes collected under this article shall separately identify  
468 the location of each retail establishment at which any of the taxes remitted were collected  
469 and shall specify the amount of sales and the amount of taxes collected at each  
470 establishment for the period covered by the return in order to facilitate the determination  
471 by the commissioner that all taxes imposed by this article are collected and distributed  
472 according to situs of sale.

473 48-8-248.

474 The proceeds of the tax collected by the commissioner in each special district under this  
475 article shall be disbursed as soon as practicable after collection to the authority to be  
476 maintained in a trust fund and administered by the authority on behalf of the special district  
477 imposing the tax. Such proceeds for each special district shall be kept separate from other  
478 funds of the authority and shall not in any manner be commingled with other funds of the  
479 authority.

480 48-8-249.

481 (a) The proceeds received from the tax authorized by this article shall be used within the  
482 special district receiving proceeds of the tax exclusively for the projects on the final  
483 investment list for such district as provided in subsection (b) of Code Section 48-8-243.

484 Authorized uses of tax proceeds in connection with such projects shall include the cost of  
485 project defined in subparagraph (2) of Code Section 48-8-242.

486 (b) The authority shall be responsible for managing the execution, schedule, and delivery  
487 of projects on the investment list for each special district. The authority may delegate such  
488 execution, schedule, and delivery of projects to a regional commission or MPO, but the  
489 authority shall maintain responsibility for same. The authority shall consult with the  
490 director on at least a quarterly basis regarding the progress and performance in the  
491 execution, schedule, and delivery of projects on the investment list.

492 (c) In managing the execution, schedule, and delivery of the projects on the investment list  
493 for a special district, the authority shall determine whether a project should be designed and  
494 constructed by the Department of Transportation, by a local government, or by another  
495 public entity. In making such determination the authority shall consider:

496 (1) Whether such project is on the state-wide transportation improvement program, the  
497 state-wide strategic transportation plan, or a transportation improvement program;

498 (2) The type and estimated cost of the project;

499 (3) The location of the project and whether it encompasses multiple jurisdictions;

500 (4) The experience and interest of a local government or public entity in designing and  
501 constructing such project as set forth in an application by such local government or public  
502 entity in a form to be provided by the authority; and

503 (5) The recommendation of the regional commission or MPO, if any, for such special  
504 district.

505 Following the authority's decision, the Department of Transportation, the Department of  
506 Community Affairs, the regional commission, the MPO, the local government or  
507 governments, or another public entity as determined under this subsection shall cooperate  
508 in implementing the projects in accordance with applicable state and federal requirements.

509 (d) The authority shall maintain a record of each and every project within a special district  
510 for which the proceeds of the tax are used. An annual audit shall be paid for by each  
511 special district and conducted by the Department of Audits and Accounts. Such audit shall  
512 include a schedule which shows for each such project the original estimated cost, the  
513 current estimated cost if it is not the original estimated cost, amounts expended in prior  
514 years, and amounts expended in the current year. Such audit shall verify and test  
515 expenditures sufficient to provide assurances that the schedule is fairly presented in relation  
516 to the financial statements. The audit report on the financial statements shall include an  
517 opinion, or disclaimer of opinion, as to whether the schedule is presented fairly in all  
518 material respects in relation to the financial statements taken as a whole.

519 (e) Ten percent of the proceeds received from the tax authorized by this article shall be  
520 distributed to the local governments within the special district in which the tax is imposed.

521 Such 10 percent shall be allocated to each local government by multiplying the LARP  
522 factor of each local government by the total amount of funds to be distributed to all the  
523 local governments in the special district. Proceeds described in this subsection shall be  
524 distributed to the local governments on an ongoing basis as they are received by the  
525 authority. Such proceeds shall be used by the local governments only for transportation  
526 projects as defined in paragraph (10) of Code Section 48-4-242. If a special district  
527 receives from the tax net proceeds in excess of the investment list approved by the director  
528 for the imposition of the tax or in excess of the actual cost of the project or projects on such  
529 investment list, then such excess proceeds shall be distributed among the local governments  
530 within the special district in accordance with this subsection.

531 48-8-250.

532 Not later than December 15 of each year, the authority shall publish, on the authority's  
533 website, a simple, nontechnical report which shows for each project in the investment list  
534 approved by the director the original estimated cost, the current estimated cost if it is not  
535 the original estimated cost, amounts expended in prior years, and amounts expended in the  
536 current year with respect to each such project. The report shall also include a statement of  
537 what corrective action the authority intends to implement with respect to each project  
538 which is underfunded or behind schedule and a statement of any surplus funds which have  
539 not been expended for a project.

540 48-8-251.

541 (a) There is created in each special district a Citizens Review Panel, each of which shall  
542 consist of five members. The chairperson of each regional commission shall appoint five  
543 persons who are residents of the district to serve as members of the corresponding panel.

544 (b) Three members of the panel who are initially appointed under subsection (a) of this  
545 Code section shall serve for terms of office of four years. Two members of the panel who  
546 are initially appointed under subsection (a) of this Code section shall serve for terms of  
547 office of two years. Thereafter, all terms of office shall be for four years. Members of the  
548 panel shall serve for the terms of office specified in this subsection and until their  
549 respective successors are appointed and qualified. Members of the panel may be  
550 reappointed to the panel upon the expiration of their terms of office if they otherwise  
551 continue to meet the qualifications for such office. If a vacancy occurs in the membership  
552 of the panel, within 60 days a successor shall be appointed by the chairperson of the  
553 regional commission for the remainder of the unexpired term.

554 (c) It shall be the duty of the panel to review the progress and performance in the  
555 execution, schedule, and delivery of projects and to advise the director of the findings from

556 such review, including any recommended course correction. It shall also be the duty of the  
557 panel to make a thorough and complete investigation of any complaint with respect to all  
558 actions regarding the expenditure of funds received from a tax under this article and  
559 compliance with state law and regulations. Complaints may be filed with the applicable  
560 regional commission by taxpayers, local governments, or private sector nonprofit  
561 organizations. The panel shall meet on a quarterly basis. The regional commission shall  
562 send a notice to all interested parties of the meeting place and time. The panel shall issue  
563 a written report of its findings which shall include such evaluations, judgments, and  
564 recommendations as it deems appropriate.

565 (d) The findings of the panel under subsection (c) of this Code section shall be transmitted  
566 to the authority and to the director within 60 calendar days of the panel meeting. The  
567 director shall have 30 calendar days to review the findings of the panel and to consult with  
568 the authority. If the director determines that remedial action is necessary, the subject of  
569 such remedial action shall be issued a notice by certified mail, return receipt requested, or  
570 statutory overnight delivery and shall be given a period of 90 calendar days to take the  
571 necessary remedial action with respect to such findings. In the event such remedial action  
572 does not occur within the specified period, the director shall be authorized to take  
573 appropriate action to enforce compliance.

574 (e) Panel members shall receive no compensation for their services but shall be reimbursed  
575 for actual expenses incurred in the performance of their duties. Each regional commission  
576 shall be responsible for the expenses of its corresponding panel.

577 48-8-252.

578 Where a regional transportation sales and use tax under this article has been paid with  
579 respect to tangible personal property by the purchaser either in another special district  
580 within the state or in a tax jurisdiction outside the state, the tax may be credited against the  
581 tax authorized to be imposed by this article upon the same property. If the amount of sales  
582 or use tax so paid is less than the amount of the use tax due under this article, the purchaser  
583 shall pay an amount equal to the difference between the amount paid in the other tax  
584 jurisdiction and the amount due under this article. The commissioner may require such  
585 proof of payment in another local tax jurisdiction as he or she deems necessary and proper.  
586 No credit shall be granted, however, against the tax imposed under this article for tax paid  
587 in another jurisdiction if the tax paid in such other jurisdiction is used to obtain a credit  
588 against any other sales and use tax levied in the special district.

589 48-8-253.

590 No tax provided for in this article shall be imposed upon the sale of tangible personal  
591 property which is ordered by and delivered to the purchaser at a point outside the  
592 geographical area of the special district in which the tax is imposed regardless of the point  
593 at which title passes, if the delivery is made by the seller's vehicle, United States mail, or  
594 common carrier or by private or contract carrier licensed by the Surface Transportation  
595 Board or the Georgia Public Service Commission.

596 48-8-254.

597 (a) As used in this Code section, the term 'building and construction materials' means all  
598 building and construction materials, supplies, fixtures, or equipment, any combination of  
599 such items, and any other leased or purchased articles when the materials, supplies,  
600 fixtures, equipment, or articles are to be utilized or consumed during construction or are  
601 to be incorporated into construction work pursuant to a bona fide written construction  
602 contract.

603 (b) No tax provided for in this article shall be imposed upon the sale or use of building and  
604 construction materials when the contract pursuant to which the materials are purchased or  
605 used was advertised for bid prior to the voters' approval of the levy of the tax and the  
606 contract was entered into as a result of a bid actually submitted in response to the  
607 advertisement prior to approval of the levy of the tax.

608 48-8-255.

609 The commissioner shall have the power and authority to promulgate such rules and  
610 regulations as shall be necessary for the effective and efficient administration and  
611 enforcement of the collection of the tax authorized to be imposed by this article.

612 48-8-256.

613 The tax authorized by this article shall not be subject to any allocation or balancing of state  
614 and federal funds provided for by general law, nor may such proceeds be considered or  
615 taken into account in any such allocation or balancing. If state transportation projects and  
616 grants require a local match, any portion of the revenues for a special district generated by  
617 the regional transportation sales and use tax may serve as such match.

618 48-8-257.

619 The validity of the creation of a special district shall be conclusively presumed unless  
620 challenged in an action filed in the Superior Court of Fulton County within 30 days after

621 the creation of the special district under this article. The State of Georgia shall be named  
622 as a defendant in any such action, which shall be heard on an expedited basis."

623 **SECTION 10.**

624 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended  
625 by revising Code Section 50-32-60, relating to the Department of Transportation's allocation  
626 of funds, as follows:

627 "50-32-60.

628 The prohibition of expenditures or withholding of funds for public road or other public  
629 transportation purposes by the authority pursuant to any provision of this chapter shall not  
630 alter the Department of Transportation's budgeted or programmed allocation of state or  
631 federal funds among ~~congressional districts~~ regions pursuant to Code Section 32-5-30."

632 **SECTION 11.**

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

635 **SECTION 12.**

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