

The House Committee on Transportation offers the following substitute to HB 1218:

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 commissioner of transportation and the director of
5 planning; to suspend restrictions on the use by public transit authorities of local sales and use
6 tax proceeds; to amend Title 48 of the Official Code of Georgia Annotated, relating to
7 revenue and taxation, so as to provide for an exemption to the total local sales and use tax
8 cap otherwise applicable; to provide such exemption for a certain tax levied for purposes of
9 a metropolitan area system of public transportation which is first levied after January 1, 2010,
10 and before November 1, 2012; to provide for legislative findings and intent; to provide for
11 the creation of special districts; to provide for a regional transportation sales and use tax in
12 such special districts; to provide for definitions; to provide for an exemption from the cap on
13 the imposition of local sales and use taxes; to provide for the development of an investment
14 list of projects; to provide for public meetings to discuss the investment list; to provide for
15 county governing authorities to approve the regional tax through a resolution or ordinance
16 supporting the regional plan and adopting the plan as an intergovernmental agreement; to
17 provide for a referendum; to provide for the rate and manner of imposition of such tax; to
18 provide for collection and administration of such tax; to provide for use of the proceeds of
19 such tax; to provide for returns; to provide for distribution and expenditure of proceeds; to
20 provide for annual reporting; to provide for tax credits; to provide for certain exemptions; to
21 provide for the effect on any local sales and use taxes; to provide for legislative oversight;
22 to amend Title 50 of the Official Code of Georgia Annotated, relating to state government,
23 so as to create the Transit Governance Study Commission to prepare legislative proposals
24 for a regional transit governing authority in Georgia; to provide for related matters; to
25 provide for an effective date; to repeal conflicting laws; and for other purposes.

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 1218 (SUB)

27 **SECTION 1.**

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

29 **SECTION 2.**30 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,
31 is amended by revising subsection (a) of Code Section 32-2-41, relating to the powers and
32 duties of the commissioner of transportation, as follows:33 "(a) As the chief executive officer of the department, the commissioner shall have direct
34 and full control of the department. He or she shall possess, exercise, and perform all the
35 duties, powers, and authority which may be vested in the department by law, except those
36 duties, powers, and authority which are expressly reserved by law to the board or the
37 director of planning. The commissioner's principal responsibility shall be the faithful
38 implementation of transportation plans produced by the director of planning and approved
39 by the Governor and the State Transportation Board, subject to the terms of such
40 appropriations Acts as may be adopted from time to time. The commissioner shall also be
41 responsible for the duties and activities assigned to the commissioner in Article 5 of
42 Chapter 8 of Title 48. When the board is not in regular or called session, the commissioner
43 shall perform, exercise, and possess all duties, powers, and authority of the board except:

44 (1) Approval of the advertising of nonnegotiated construction contracts; and

45 (2) Approval of authority lease agreements.

46 The commissioner shall also have the authority to exercise the power of eminent domain
47 and to execute all contracts, authority lease agreements, and all other functions except those
48 that cannot legally be delegated to him or her by the board."49 **SECTION 3.**50 Said title is further amended by revising subsection (b) of Code Section 32-2-43, relating to
51 the responsibilities of the director of planning, as follows:52 "(b) The director of planning's principal responsibility shall be the development of
53 transportation plans, including the development of the state-wide strategic transportation
54 plan and state-wide transportation improvement program and other comprehensive plans
55 pursuant to the provisions of Code Section 32-2-3 and Code Section 32-2-22, strategic
56 transportation plans pursuant to the provisions of Code Section 32-2-41.1, and benchmarks
57 and value engineering studies pursuant to the provisions of Code Section 32-2-41.2, in
58 consultation with the board, the Governor, and the commissioner. The director shall also
59 be responsible for the duties and activities assigned to the director in Article 5 of Chapter
60 8 of Title 48. The director shall be the director of the Planning Division of the department
61 and shall possess, exercise, and perform all the duties, powers, and authority which may

62 be vested in such division by law and are necessary or appropriate for such purpose, except
 63 those duties, powers, and authority which are expressly reserved by law to the board or the
 64 commissioner."

65 **SECTION 4.**

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

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

75 **SECTION 5.**

76 Said title is further amended by revising paragraph (1) of subsection (a) of Code Section
 77 32-5-30, relating to allocation of state and federal funds, as follows:

78 "(a)(1) The total of expenditures from the State Public Transportation Fund under
 79 paragraphs (4), (5), and (6) of Code Section 32-5-21 plus expenditures of federal funds
 80 appropriated to the department less budgeted expenditures of proceeds from the sale of
 81 general obligation bonds, not including any federal funds specifically designated for
 82 projects that have been earmarked by a member of Congress in excess of appropriated
 83 funds, shall be budgeted by the department ~~over two successive budgeting periods~~ every
 84 decade, beginning July 1, 2011."

85 **SECTION 6.**

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

88 "32-9-13.
 89 Provisions in all laws, whether general or local, including but not limited to the
 90 Metropolitan Atlanta Rapid Transit Authority Act of 1965 approved March 10, 1965 (Ga.
 91 L. 1965, p. 2243), as amended, that set forth restrictions on the use by public transit
 92 authorities of annual proceeds from local sales and use taxes shall be suspended for the
 93 period beginning on the effective date of this Code section and continuing for three years.
 94 The greater discretion over such funds shall not abrogate the obligation of the public transit
 95 authority to comply with federal and state safety regulations and guidelines. Newly

96 available funds shall be utilized, subject to total funding, to maintain the level of service
 97 for the transit system as it existed on January 1, 2010. Furthermore, except as had been
 98 previously contracted to by the public transit authority prior to January 1, 2010, no funds
 99 newly available during this suspended period shall be used by a public transit authority to
 100 benefit any person or other entity for any of the following: annual cost-of-living or merit
 101 based salary raises or increases in hourly wages; increased overtime due to such wage
 102 increases; payment of bonuses; or to increase the level of benefits of any kind."

103 **SECTION 7.**

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

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

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

116 (2) Any tax levied for purposes of a metropolitan area system of public transportation,
 117 as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page
 118 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d)
 119 of the Constitution; and the laws enacted pursuant to such constitutional amendment;
 120 provided, however, that the exception provided for under this paragraph shall only apply
 121 in:

122 (A) In a county in which a tax is being imposed under subparagraph (a)(1)(D) of Code
 123 Section 48-8-111 in whole or in part for the purpose or purposes of a water capital
 124 outlay project or projects, a sewer capital outlay project or projects, a water and sewer
 125 capital outlay project or projects, water and sewer projects and costs as defined under
 126 paragraph ~~(3)~~(4) of Code Section 48-8-200, or any combination thereof and with
 127 respect to which the county has entered into an intergovernmental contract with a
 128 municipality, in which the average waste-water system flow of such municipality is not
 129 less than 85 million gallons per day, allocating proceeds to such municipality to be used
 130 solely for water and sewer projects and costs as defined under paragraph ~~(3)~~(4) of Code
 131 Section 48-8-200. The exception provided for under this ~~paragraph~~ subparagraph shall

132 apply only during the period the tax under said subparagraph (a)(1)(D) is in effect. The
 133 exception provided for under this ~~paragraph~~ subparagraph shall not apply in any county
 134 in which a tax is being imposed under Article 2A of this chapter; or

135 (B) In a county in which the tax levied for purposes of a metropolitan area system of
 136 public transportation is first levied after January 1, 2010, and before November 1, 2012;

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

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

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

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

146 **SECTION 8.**

147 Said title is further amended by adding a new article in Chapter 8 to read as follows:

148 "ARTICLE 5

149 48-8-240.

150 The local governments of the State of Georgia are of vital importance to the state and its
 151 citizens. The state has an essential public interest in promoting, developing, sustaining, and
 152 assisting local governments. The General Assembly finds that the design and construction
 153 of transportation projects is a critical local government service for which adequate funding
 154 is not presently available. Many transportation projects cross multiple jurisdictional
 155 boundaries and must be coordinated in their design and construction. The General
 156 Assembly finds that the most efficient means to coordinate and fund such projects is
 157 through the creation of special districts that correspond with the boundaries of existing
 158 regional commissions. The purpose of this article is to provide for special districts that will
 159 enable the coordinated design and construction of transportation projects that will develop
 160 and promote the essential public interests of the state and its citizens at the state, regional,
 161 and local levels. The General Assembly intends through the creation of such special
 162 districts to enable the citizens within each district to decide in a referendum whether to
 163 authorize the imposition of a regional transportation sales and use tax to fund the projects
 164 on an investment list collaboratively developed by the affected local governments and the
 165 state. This article shall be construed liberally to achieve its purpose.

166 48-8-241.

167 (a) There are created within this state 12 special districts. The geographical boundary of
 168 each special district shall correspond with and shall be coterminous with the geographical
 169 boundary of the applicable region of the 12 regional commissions provided for in
 170 subsection (f) of Code Section 50-8-4 as those geographical boundaries existed upon the
 171 effective date of this article.

172 (b) When the imposition of a special district sales and use tax is authorized according to
 173 the procedures provided in this article within a special district, subject to the requirement
 174 of referendum approval and the other requirements of this article, a special district sales
 175 and use tax shall be imposed within the special district for a period of ten years which tax
 176 shall be known as the regional transportation sales and use tax.

177 (c) Nothing in this article shall be construed as limiting the commissioner from authorizing
 178 the treasurer to establish a fund or funds which would provide at least 20 years of
 179 maintenance and operation costs from proceeds of regional transportation sales and use tax
 180 used to construct, finance, or otherwise develop transit capital projects; provided, however,
 181 that the Metropolitan Atlanta Rapid Transit Authority, created by an Act approved March
 182 10, 1965 (Ga. L. 1965, p. 2243), as amended, shall not be authorized to use any proceeds
 183 from the regional transportation sales and use tax for expenses of maintenance and
 184 operation.

185 (d) Any tax imposed under this article shall be at the rate of 1 percent. Except as to rate,
 186 a tax imposed under this article shall correspond to the tax imposed by Article 1 of this
 187 chapter. No item or transaction which is not subject to taxation under Article 1 of this
 188 chapter shall be subject to a tax imposed under this article, except that a tax imposed under
 189 this article shall not apply to:

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

192 (2) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport;

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

196 or

197 (4) The sale or use of energy used in the manufacturing or processing of tangible goods
 198 primarily for resale.

199 The tax imposed pursuant to this article shall only be levied on the first \$5,000.00 of any
 200 transaction involving the sale or lease of a motor vehicle. The tax imposed pursuant to this
 201 article shall be subject to any sales and use tax exemption which is otherwise imposed by

202 law; provided; however, that the tax levied by this article shall be applicable to the sale of
 203 food and beverages as provided for in division (57)(D)(i) of Code Section 48-8-3.

204 48-8-242.

205 As used in this article, the term:

206 (1) 'Commissioner' means the commissioner of transportation.

207 (2) 'Cost of project' means:

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

212 (B) All costs of real property or rights in property, fixtures, or personal property used
 213 in or in connection with or necessary for any project of the special district or for any
 214 facilities related thereto, including but not limited to the cost of all land, interests in
 215 land, estates for years, easements, rights, improvements, water rights, and connections
 216 for utility services; the cost of fees, franchises, permits, approvals, licenses, and
 217 certificates; the cost of securing any such franchises, permits, approvals, licenses, or
 218 certificates; the cost of preparation of any application therefor; and the cost of all
 219 fixtures, machinery, equipment, furniture, and other property used in or in connection
 220 with or necessary for any project of the special district;

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

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

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

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

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

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

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

236 (J) Administrative expenses of the special district and such other expenses as may be
 237 necessary or incidental to any project of the special district or the financing thereof; and

238 (K) A fund or funds or such other reserves as the commissioner may authorize the
239 treasurer to establish with respect to the financing and operation of any project of the
240 special district.

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

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

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

244 (6) 'LARP factor' means the sum of one-fifth of the ratio between the population of a
245 local government's jurisdiction and the total population of the special district in which
246 such local government is located plus four-fifths of the ratio between the paved and
247 unpaved centerline road miles in the local government's jurisdiction and the total paved
248 and unpaved centerline road miles in the special district in which such local government
249 is located.

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

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

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

257 (10) 'Project' means, without limitation, any new or existing roads, bridges, bus and rail
258 mass transit systems, freight and passenger rail, pedestrian facilities, bike lanes, airports,
259 ports, and all activities and structures useful and incident to providing, operating, and
260 maintaining the same. The term shall also include direct appropriations to a local
261 government for the purpose of serving as a local match for state or federal funding.

262 (11) 'Regional transportation roundtable' means a conference of the local governments
263 of a special district created pursuant to this article held at a centralized location within the
264 district as chosen by the director for the purpose of establishing the investment criteria
265 and determining projects eligible for the investment list for the special district. The
266 regional transportation roundtable shall consist of two representatives from each county,
267 including the chairperson, sole commissioner, mayor, or chief executive officer of the
268 county governing authority and one mayor elected by the mayors of the county; provided,
269 however, that, in the event such an election ends in a tie, the mayor of the municipal
270 corporation with the highest population determined using the most recently completed
271 United States decennial census shall be deemed to have been elected as a representative
272 unless that mayor is already part of the roundtable. In such case, the mayor of the
273 municipal corporation with the second highest population shall be deemed to have been
274 elected as a representative. If a county has more than 90 percent of its population

275 residing in municipal corporations, such county shall have the mayor of the municipal
276 corporation with the highest population determined using the most recently completed
277 United States decennial census as an additional representative. The regional
278 transportation roundtable shall elect five representatives from among its members to
279 serve as an executive committee. The executive committee shall also include two
280 members of the House of Representatives selected by the chairperson of the House
281 Transportation Committee and one member of the Senate selected by the chairperson of
282 the Senate Transportation Committee. Each member of the General Assembly appointed
283 to the executive committee shall represent a district which lies wholly or partially within
284 the region represented by the executive committee. The executive committee shall not
285 have more than one representative from any one county, but any member of the General
286 Assembly serving on the executive committee shall not count as a representative of his
287 or her county.

288 (12) 'Special Regional Transportation Funding Election Act' means an Act specifically
289 and exclusively enacted for the purpose of ordering that a referendum be held for the
290 reimposition of the regional transportation sales and use tax within the region that
291 includes the districts, in their entirety or any portion thereof, of the members from a local
292 legislative delegation in the General Assembly. A majority of the signatures of the
293 legislative delegation for a majority of the counties within the region shall be required for
294 the bill to be placed upon the local calendar of each chamber. This method shall be
295 exclusively used for this purpose and no other bill shall be placed or voted upon on the
296 local calendar utilizing this method of qualification for placement thereon. This Act shall
297 be treated procedurally by the General Assembly as a local Act and all counties within
298 the region shall receive the legal notice requirements of a local Act.

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

301 (14) 'State-wide transportation improvement program' means a state-wide prioritized
302 listing of transportation projects as defined in paragraph (7) of subsection (a) of Code
303 Section 32-2-22.

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

306 (16) 'Treasurer' means the supervisor of the finance division of the Department of
307 Transportation as provided for in paragraph (5) of subsection (b) of Code Section
308 32-2-41.

309 48-8-243.
310 (a) On or before August 15, 2010, the director shall provide in written form to the local
311 governments and any MPO's within each special district across the state recommended
312 criteria for the development of an investment list of projects and programs. The
313 establishment of such criteria shall comport with the investment policies provided in
314 subsection (a) of Code Section 32-2-41.1 and the state-wide strategic transportation plan.
315 The recommended criteria shall include performance goals, allocation of investments in
316 alignment with performance, and execution of projects. The state fiscal economist shall
317 develop an estimate of the proceeds of the regional transportation sales and use tax for each
318 special district using financial data supplied by the department. Such estimate shall include
319 a reasonable range of anticipated growth, if any. The director shall include such estimates
320 and ranges in the recommended criteria for developing the draft investment list. Any local
321 government or MPO desiring to submit comments on the recommended criteria shall make
322 such submission to the director no later than September 30, 2010. On or before November
323 10, 2010, the mayors in each county shall elect the mayoral representative to the regional
324 transportation roundtable and notify the county commission chairperson and the director
325 of that mayor's name. The director shall accept comments from any MPO located wholly
326 or partially within each special district in finalizing the recommended district criteria in a
327 written report on or before November 15, 2010. Such report shall also include notice of
328 the date, time, and location of the first regional transportation roundtable for each special
329 district for the purpose of considering the recommended district criteria and for electing
330 members of the executive committee for each special district. Any amendment to the
331 recommended criteria, approval of such criteria, and election of the executive committee
332 shall be enacted by a majority vote of the representatives present at the roundtable meeting.
333 Upon approval of the criteria, if any are approved, the director shall promptly deliver a
334 report to the commissioner, local governments, any MPO located wholly or partially within
335 each special district and to the members of the General Assembly whose districts lie wholly
336 or partially within each special district detailing the criteria approved by the roundtable.
337 (b) With regard to any area of a special district that is not part of an MPO, following
338 receipt of the report provided for in subsection (a) of this Code section, and after receiving
339 comments, if any, from members of the General Assembly whose districts lie wholly or
340 partially within such area, the local governments in such area may submit projects that
341 comport with the special district's investment criteria to the director to assemble a draft
342 investment list for such special district. With regard to any area of a special district that
343 is part of an MPO, following receipt of the report provided for in subsection (a) of this
344 Code section, and after receiving comments, if any, from members of the General
345 Assembly whose districts lie wholly or partially within such area, the local governments

346 may submit projects that comport with the special district's investment criteria to the
347 director and to the MPO for the director to use to assemble a draft investment list for such
348 special district. The draft investment list for each special district shall comport with the
349 investment criteria as approved by such district and shall be submitted to the commissioner
350 and the executive committee for each regional transportation roundtable for consideration,
351 where the executive committee in consultation with the director shall negotiate and vote
352 on amendments, if any, to the draft list and approve by majority vote the list to be
353 considered by the regional roundtable. The director shall deliver a draft of the investment
354 list to such local governments, MPO's, and members of the General Assembly whose
355 districts lie wholly or partially within each special district for each special district not later
356 than August 15, 2011. The director shall include in the draft of the investment list a
357 statement of the specific public benefits to be expected upon the completion of each project
358 on the investment list and how the special district's investment criteria are furthered by
359 each project. Examples of specific public benefits include, but are not limited to,
360 congestion mitigation, increased lane capacity, public safety, and economic development.
361 The director shall include in such delivery notice of the date, time, and location of each
362 district's executive committee meeting and final regional transportation roundtable. Prior
363 to holding the final regional transportation roundtable, the executive committee shall hold,
364 after proper notice to the public, at least two public meetings in the region for the purpose
365 of receiving public comment on the draft regional investment list. The executive
366 committee shall prepare and deliver to all members of the regional roundtable and the
367 director a summary of the public comment on the regional investment list. The local
368 governments, MPO's, commissioner, and members of the General Assembly may submit
369 comments on the draft investment list addressed to both the director and the executive
370 committee no later than two weeks prior to the dates of the final regional transportation
371 roundtable and the executive committee meeting, respectively, for the special district. At
372 the final regional transportation roundtable, the draft investment list approved by the
373 executive committee shall be considered for approval by a majority vote of the
374 representatives present at the roundtable. Should the roundtable reject the investment list
375 approved by the executive committee, the roundtable then may negotiate amendments that
376 meet the criteria to the draft investment list, each voted on separately and requiring a
377 majority vote of the representatives present at the roundtable for approval. Upon
378 consideration of all offered amendments, upon motion, the roundtable shall vote as to the
379 approval of the amended draft list, requiring a majority vote of the representatives present
380 at the roundtable. The approved investment list, if any, shall be provided to the director.
381 On or before October 15, 2011, the director shall deliver such list to the commissioner,
382 local governments, MPO's, and members of the General Assembly whose districts lie

383 wholly or partially within each special district for each special district. If a roundtable does
 384 not approve the original draft investment list or an amended draft investment list on or
 385 before October 15, 2011, then a regional impasse shall be declared and no election shall
 386 be held in such special district. The question of levying the tax shall not again be
 387 submitted to the voters of the special district until after 24 months immediately following
 388 the month in which the impasse was reached.

389 48-8-243.1.

390 (a) After receipt of the approved investment list, if any, provided for in subsection (b) of
 391 Code Section 48-8-243, the governing authority of each county or consolidated government
 392 within a region shall adopt an ordinance or resolution calling for the submission of the
 393 regional plan to a referendum as provided for by this article. Such ordinance or resolution
 394 shall provide that the regional plan, including the approved investment list, shall operate
 395 as an intergovernmental contract; and, as such, it shall stand adopted by such county
 396 subject to the result of the referendum and shall allow the levy, subject to the result of such
 397 referendum, of the regional transportation sales and use tax provided for by this article.

398 (b) The ordinance or resolution provided for in subsection (a) of this Code section shall
 399 also specify:

400 (1) The ten-year term of the regional transportation sales and use tax;

401 (2) The rate of the tax to be imposed pursuant to this article and the estimated amount
 402 of revenues to be derived from such tax over the ten-year term;

403 (3) The list of major projects on the approved investment list; and

404 (4) The date of the referendum for the approval of the regional transportation sales and
 405 use tax and investment list by the electors of the region, which shall be the date specified
 406 in the regional plan.

407 48-8-244.

408 (a) Upon passage of the resolution or ordinance provided for in Code Section 48-8-243.1,
 409 the governing authority of each county or consolidated government within a region shall
 410 notify the election superintendent of its respective jurisdiction by forwarding to the
 411 superintendent a copy of the ordinance or resolution calling for the approval of such
 412 intergovernmental contract and the levy of the regional transportation sales tax. A copy
 413 of such notification shall be forwarded to the election superintendent of each other county
 414 within the region. Upon receipt of the notice, each election superintendent shall issue the
 415 call for an election for the purpose of submitting the question of the approval of the
 416 intergovernmental contract and levy of the regional transportation tax to the voters within
 417 his or her county within the special district. Each election superintendent shall issue the

418 call and the first election shall be held on the date of the general primary in 2012. Each
 419 election superintendent shall cause the date and purpose of the election to be published
 420 once a week for four weeks immediately preceding the date of the election in the official
 421 organ of his or her county.

422 (b) The ballot submitting the question of the levy of the regional transportation tax
 423 authorized by this article to the voters within each special district shall have written or
 424 printed thereon the following:

425 '() YES Shall _____ County's transportation system and the transportation
 426 network in this region and the state be improved by providing for a 1
 427 () NO percent regional transportation sales tax for the purpose of transportation
 428 projects and programs for a period of ten years?'

429 (c) All persons desiring to vote in favor of levying the tax shall vote 'Yes' and all persons
 430 opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast
 431 throughout the entire special district are in favor of levying the tax, then the tax shall be
 432 levied as provided in this article; otherwise the tax shall not be levied and the question of
 433 levying the tax shall not again be submitted to the voters of the special district until after
 434 24 months immediately following the month in which the election was held. Each election
 435 superintendent shall hold and conduct the election under the same rules and regulations as
 436 govern special elections. Each election superintendent shall canvass the returns from his
 437 or her county, declare the result of the election in that county, and certify the result to the
 438 Secretary of State. The Secretary of State shall compile the results from each county in the
 439 special district, declare the result of the election in the special district, and certify the result
 440 to the governing authority of each local government and MPO within the special district
 441 and the state revenue commissioner. The expense of the election in each county within
 442 each special district shall be paid from funds of each county.

443 48-8-244.1.

444 The approval of the levy of the regional transportation sales and use tax in a region shall
 445 not in any way diminish the percentage of funds allocated to a region or any of the local
 446 governments within a region under the provisions of subsection (c) of Code Section
 447 32-5-27. The amount of funds expended in a region shall not be decreased due to the use
 448 of proceeds from the regional transportation sales and use tax to construct transportation
 449 projects that have a high priority in the state-wide strategic transportation plan. If a region
 450 constructs a project on the approved investment list using proceeds from the regional tax,
 451 then the state funding under subsection (c) of Code Section 32-5-27 shall not be diverted
 452 to priority projects in other regions.

453 48-8-245.

454 (a) If the imposition of the regional transportation sales and use tax is approved at the
 455 special election, the collection of such tax shall begin on the first day of the next
 456 succeeding calendar quarter beginning more than 80 days after the date of the election.
 457 With respect to services which are regularly billed on a monthly basis, however, the tax
 458 shall become effective with respect to and the tax shall apply to services billed on or after
 459 the effective date specified in the previous sentence.

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

461 (1) On the final day of the ten-year period of time specified for the imposition of the tax;
 462 or

463 (2) As of the end of the calendar quarter during which the state revenue commissioner
 464 determines that the tax has raised revenues sufficient to provide to the special district net
 465 proceeds equal to or greater than the amount specified as the estimated amount of net
 466 proceeds to be raised by the regional transportation tax.

467 (c)(1) No more than a single 1 percent tax under this article may be collected at any time
 468 within a special district.

469 (2) Upon the enactment by the General Assembly of a Special Regional Transportation
 470 Funding Election Act and the adoption of resolutions by the governing bodies of a
 471 majority of the counties within a special district in which a tax authorized by this article
 472 is in effect, an election may be held for the reimposition of the tax while the tax is in
 473 effect. Proceedings for the development of an investment list and for the reimposition
 474 of a tax shall be in the same manner as provided for in Code Section 48-8-243.

475 (3) Following the expiration of the regional transportation sales and use tax under this
 476 article, or following a special election in which voters in a special district rejected the
 477 imposition of the tax, upon the passage by the General Assembly of a Special Regional
 478 Transportation Funding Election Act and the adoption of resolutions by the governing
 479 bodies of all counties within a special district, an election may be held for the imposition
 480 of a tax under this article in the same manner as provided in this article for the initial
 481 imposition of such tax. Such subsequent election shall be held on the date of a general
 482 primary. The development of the investment list for such special district shall follow the
 483 dates established in Code Section 48-8-243 with the years adjusted appropriately, and
 484 such schedule shall be posted on a website developed by the commissioner to be used
 485 exclusively for matters related to the regional transportation sales and use tax within 30
 486 days of the later of the commissioner's receipt of notice from the final county governing
 487 body to adopt a resolution or of the passage of the Special Regional Transportation
 488 Funding Election Act by the General Assembly.

489 48-8-246.

490 A tax levied pursuant to this article shall be exclusively administered and collected by the
491 state revenue commissioner for the use and benefit of the special district imposing the tax.
492 Such administration and collection shall be accomplished in the same manner and subject
493 to the same applicable provisions, procedures, and penalties provided in Article 1 of this
494 chapter; provided, however, that all moneys collected from each taxpayer by the state
495 revenue commissioner shall be applied first to such taxpayer's liability for taxes owed the
496 state; and provided, further, that the state revenue commissioner may rely upon a
497 representation by or in behalf of the special district or the Secretary of State that such a tax
498 has been validly imposed, and the state revenue commissioner and the state revenue
499 commissioner's agents shall not be liable to any person for collecting any such tax which
500 was not validly imposed. Dealers shall be allowed a percentage of the amount of the tax
501 due and accounted for and shall be reimbursed in the form of a deduction in submitting,
502 reporting, and paying the amount due if such amount is not delinquent at the time of
503 payment. The deduction shall be at the rate and subject to the requirements specified under
504 subsections (b) through (f) of Code Section 48-8-50.

505 48-8-247.

506 Each sales tax return remitting taxes collected under this article shall separately identify
507 the location of each retail establishment at which any of the taxes remitted were collected
508 and shall specify the amount of sales and the amount of taxes collected at each
509 establishment for the period covered by the return in order to facilitate the determination
510 by the state revenue commissioner that all taxes imposed by this article are collected and
511 distributed according to situs of sale.

512 48-8-248.

513 The proceeds of the tax collected by the state revenue commissioner in each special district
514 under this article shall be disbursed as soon as practicable after collection to the treasurer
515 to be maintained in a trust fund and administered by the treasurer on behalf of the special
516 district imposing the tax. Such proceeds for each special district shall be kept separate
517 from other funds of the Department of Transportation and shall not in any manner be
518 commingled with other funds of the Department of Transportation.

519 48-8-249.

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

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

525 (b) The commissioner shall be responsible for managing the execution, schedule, and
 526 delivery of projects on the investment list for each special district. The commissioner may
 527 delegate such execution, schedule, and delivery of projects. The commissioner shall
 528 consult with the director on at least a quarterly basis regarding the progress and
 529 performance in the execution, schedule, and delivery of projects on the investment list.

530 (c) In managing the execution, schedule, and delivery of the projects on the investment list
 531 for a special district, the commissioner, in consultation with the chief engineer, shall
 532 determine whether a project should be designed and constructed by the Department of
 533 Transportation, by a local government, or by another public or private entity. In making
 534 such determination the commissioner shall consider:

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

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

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

539 (4) The experience of a local government or governments or a public or private entity in
 540 designing and constructing such project as set forth in an application in a form to be
 541 provided by the commissioner; and

542 (5) The recommendation of the MPO, if any, for such special district.

543 Following the commissioner's decision, the Department of Transportation, the local
 544 government or governments, or another public or private entity as determined under this
 545 subsection shall contract for implementing the projects in accordance with applicable state
 546 and federal requirements.

547 (d) The commissioner shall maintain an adequate record-keeping system for each project
 548 funded by a regional transportation sales and use tax. An annual audit shall be paid for by
 549 each special district and conducted by the Department of Audits and Accounts. Such audit
 550 shall include a schedule which shows for each such project the original estimated cost, the
 551 current estimated cost if it is not the original estimated cost, amounts expended in prior
 552 years, and amounts expended in the current year. Such audit shall verify and test
 553 expenditures sufficient to provide assurances that the schedule is fairly presented in relation
 554 to the financial statements. The audit report on the financial statements shall include an
 555 opinion, or disclaimer of opinion, as to whether the schedule is presented fairly in all
 556 material respects in relation to the financial statements taken as a whole.

557 (e) Twenty-five percent of the proceeds received from the tax authorized by this article
 558 shall be distributed to the local governments within the special district in which the tax is
 559 imposed. Such 25 percent shall be allocated to each local government by multiplying the

560 LARP factor of each local government by the total amount of funds to be distributed to all
 561 the local governments in the special district. Proceeds described in this subsection shall
 562 be distributed to the local governments on an ongoing basis as they are received by the
 563 commissioner. Such proceeds shall be used by the local governments only for
 564 transportation projects as defined in paragraph (10) of Code Section 48-8-242. If a special
 565 district receives from the tax net proceeds in excess of the investment list approved by the
 566 director for the imposition of the tax or in excess of the actual cost of the project or projects
 567 on such investment list, then such excess proceeds shall be distributed among the local
 568 governments within the special district in accordance with this subsection.

569 48-8-250.

570 Not later than December 15 of each year, the commissioner shall publish, on the website
 571 created pursuant to paragraph (3) of subsection (c) of Code Section 48-8-245, a simple,
 572 nontechnical report which shows for each project in the investment list approved by the
 573 director the original estimated cost, the current estimated cost if it is not the original
 574 estimated cost, amounts expended in prior years, and amounts expended in the current year
 575 with respect to each such project. The report shall also include a statement of what
 576 corrective action the commissioner intends to implement with respect to each project which
 577 is underfunded or behind schedule and a statement of any surplus funds which have not
 578 been expended for a project.

579 48-8-251.

580 (a) There is created the Georgia Regional Transportation Legislative Oversight Committee
 581 to be composed of three members of the House of Representatives appointed by the
 582 Speaker and two members of the Georgia Senate appointed by the Lieutenant Governor.
 583 At least one member of the General Assembly appointed by each of the foregoing
 584 appointing officials shall at the time of such appointment and thereafter be a member of a
 585 political party other than that of the appointing official. Members shall serve during their
 586 terms of office and until their successors are appointed and qualified.

587 (b) In the event that any vacancy for any cause shall occur in the appointed membership
 588 of the committee, such vacancy shall be filled by an appointment made by the official
 589 authorized by law to make such appointment within 45 days of the occurrence of such
 590 vacancy.

591 (c) The committee shall, by majority vote of those members present and voting, elect from
 592 their number a chairperson and vice chairperson who shall serve at the pleasure of the
 593 committee.

594 (d) The committee shall meet in regular session at least three days each year either at the
595 state capitol in Atlanta or at such other meeting place and may have such other additional
596 meetings as may be called by the chairperson or by a majority of the members of the
597 committee upon reasonable written notice to all members of the committee. Further, the
598 chairperson of the committee is authorized from time to time to call meetings of
599 subcommittees of the committee which are established by committee policy at places inside
600 or outside the state when, in the opinion of the chairperson, the meetings of the
601 subcommittee are needed to attend properly to the committee's business. A majority of the
602 committee shall constitute a quorum for the transaction of all business. Any power of the
603 committee may be exercised by a majority vote of those members present at any meeting
604 at which there is a quorum.

605 (e) Members shall receive for each day of actual attendance at meetings of the committee
606 and the subcommittee meetings the per diem and transportation costs prescribed in Code
607 Section 45-7-21, and a like sum shall be paid for each day actually spent in studying the
608 transportation needs of the state or attending other functions as a representative of the
609 committee, not to exceed ten days in any calendar year, but no member shall receive such
610 per diem for any day for which such member receives any other per diem pursuant to such
611 Code section. In addition, members shall receive actual transportation costs while traveling
612 by public carrier or the legal mileage rate for the use of a personal automobile in
613 connection with such attendance and study. Such per diem and expense shall be paid from
614 the funds of the General Assembly upon presentation, by members of the committee, of
615 vouchers approved by the chairperson.

616 (f) The committee shall be charged with oversight of the governance and administration
617 of the projects and programs included on the investment list. The committee may make
618 such recommendations to and require such reports from the commissioner, the treasurer,
619 any other agency or instrumentality of the state, any political subdivision of the state, and
620 any agency or instrumentality of such political subdivisions as it may deem appropriate and
621 necessary from time to time in the interest of the region.

622 (g) Upon the completion of a project on the investment list, the committee shall annually
623 review the specific public benefits identified in the investment list to ascertain the degree
624 to which such benefits have been attained. This benefit review report shall be delivered to
625 the director and commissioner and shall be published on the website created pursuant to
626 paragraph (3) of subsection (c) of Code Section 48-8-245.

627 (h) Beginning January 1, 2012, and annually thereafter, the committee shall provide a
628 report to the General Assembly of its actions during the previous year. The report shall be
629 available for public inspection on the website created pursuant to paragraph (3) of
630 subsection (c) of Code Section 48-8-245. The report shall include, but not be limited to,

631 an update on the progress on each project on the investment list for the region, including
632 the amount of funds spent on each project.

633 48-8-252.

634 Where a regional transportation sales and use tax under this article has been paid with
635 respect to tangible personal property by the purchaser either in another special district
636 within the state or in a tax jurisdiction outside the state, the tax may be credited against the
637 tax authorized to be imposed by this article upon the same property. If the amount of sales
638 or use tax so paid is less than the amount of the use tax due under this article, the purchaser
639 shall pay an amount equal to the difference between the amount paid in the other tax
640 jurisdiction and the amount due under this article. The state revenue commissioner may
641 require such proof of payment in another local tax jurisdiction as he or she deems necessary
642 and proper. No credit shall be granted, however, against the tax imposed under this article
643 for tax paid in another jurisdiction if the tax paid in such other jurisdiction is used to obtain
644 a credit against any other sales and use tax levied in the special district.

645 48-8-253.

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

652 48-8-254.

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

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

664 48-8-255.

665 Subject to the approval of the House and Senate Transportation Committees, the state
 666 revenue commissioner shall have the power and authority to promulgate such rules and
 667 regulations as shall be necessary for the effective and efficient administration and
 668 enforcement of the collection of the regional transportation sales and use tax authorized by
 669 this article.

670 48-8-256.

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

676 **SECTION 9.**

677 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
 678 by revising Article 1 of Chapter 32, relating to the Georgia Regional Transportation
 679 Authority, by adding a new Code section to read as follows:

680 "50-32-5.

681 (a) The State of Georgia, particularly the metropolitan Atlanta region, faces a number of
 682 critical issues relating to its transportation system and ever-increasing traffic congestion.
 683 In light of the dwindling resources available to help solve the problems, it is imperative that
 684 all available resources be used to maximum efficiency in order to alleviate the gridlock in
 685 and around the metropolitan Atlanta region. There exists a need for a thorough
 686 examination of our current transportation system and the methodical development of
 687 legislative proposals for a regional transit governing authority in Georgia.

688 (b) In order to find practical, workable solutions to these problems, there is created the
 689 Transit Governance Study Commission to be composed of: four Senators from the Atlanta
 690 Regional Commission area to be appointed by the Lieutenant Governor, four
 691 Representatives from the Atlanta Regional Commission area to be appointed by the
 692 Speaker of the House of Representatives, the chairperson of the Metropolitan Atlanta Rapid
 693 Transit Oversight Committee, the chairperson of the Atlanta Regional Commission, the
 694 chairperson of the Regional Transit Committee of the Atlanta Regional Commission, one
 695 staff member from the Atlanta Regional Commission to be selected by the chairperson of
 696 the Atlanta Regional Commission, the executive director of the Georgia Regional
 697 Transportation Authority, the general manager of the Metropolitan Atlanta Rapid Transit

698 Authority, and the directors of any other county transit systems operating in the Atlanta
 699 Regional Commission area.

700 (c) The commission shall elect, by a majority vote, one of its legislative members to serve
 701 as chairperson of the commission and such other officers as the commission deems
 702 appropriate. The commission shall meet at least quarterly at the call of the chairperson.
 703 The commission may conduct such meetings and hearings at such places and at such times
 704 as it may deem necessary or convenient to enable it to exercise fully and effectively its
 705 powers, perform its duties, and accomplish its objectives and purposes as contained in this
 706 Code section.

707 (d) All officers and agencies of the three branches of state government are directed to
 708 provide all appropriate information and assistance as requested by the commission.

709 (e) The commission shall undertake a study of the issues described in this Code section
 710 and recommend specific legislation which the commission deems necessary or appropriate.
 711 Specifically, the commission shall determine the best manner in which to use the resources
 712 allocated in the region to public transportation, including a preliminary report on the
 713 feasibility of combining all of the regional public transportation entities into an integrated
 714 regional transit body. This preliminary report shall be completed on or before December
 715 31, 2010, and be delivered to the Governor, the Lieutenant Governor, and the Speaker of
 716 the House of Representatives. The commission shall make a final report of its findings and
 717 recommendations, with specific language for proposed legislation, if any, on or before
 718 August 1, 2011, to the Governor, the Lieutenant Governor, and the Speaker of the House
 719 of Representatives. The commission shall stand abolished on August 1, 2011, unless
 720 extended by subsequent Act of the General Assembly."

721 **SECTION 10.**

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

724 **SECTION 11.**

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