

House Bill 1221 (COMMITTEE SUBSTITUTE)

By: Representatives O`Neal of the 146th and Abrams of the 84th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to provide for the comprehensive revision of sales and use tax provisions for
3 streamlined sales tax purposes; to change and provide for definitions; to change and provide
4 for exemptions; to change certain provisions regarding limitations on local sales and use
5 taxes; to change certain provisions regarding designation of price brackets; to change certain
6 provisions regarding tax collection from dealers; to change certain provisions regarding
7 taxability burden of proof; to change certain provisions regarding property retention,
8 demonstration, or display; to change certain provisions regarding reporting of sales and
9 accounting methods; to change certain provision regarding dealer returns and estimated tax
10 liability; to change certain provisions regarding dealer compensation; to change certain
11 provisions regarding dealers' duty to keep records, examination, assessment, and collection;
12 to change certain provisions regarding return allowances; to change certain provisions
13 regarding dealer certificates of registration; to provide for comprehensive procedures,
14 conditions, and limitations regarding implementation of streamlined sales tax purposes; to
15 change certain provisions regarding the imposition of the joint county and municipal sales
16 and use tax; to change certain provisions regarding imposition of the homestead option sales
17 and use tax; to change certain provisions regarding imposition of the county special purpose
18 local option sales tax; to change certain provisions regarding definitions relating to the
19 Streamlined Sales and Use Tax Agreement; to change certain provisions regarding
20 intergovernmental contracts and imposition of the municipal option water and sewer projects
21 and costs tax; to provide for an excise tax on certain jet fuel; to provide for related matters;
22 to provide an effective date; to repeal conflicting laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

24 **SECTION 1.**

25 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
26 amended by revising Code Section 48-8-2, relating to definitions regarding sales and use tax,
27 as follows:

H. B. 1221 (SUB)

28 "48-8-2.

29 As used in this article, the term:

30 (1) 'Alcoholic Beverages' means beverages that are suitable for human consumption and
31 contain one-half of one percent or more of alcohol by volume.

32 (2) 'Ancillary services' means services that are associated with or incidental to the
33 provision of 'telecommunications services,' including but not limited to 'detailed
34 telecommunications billing service,' 'directory assistance,' 'vertical service,' and 'voice
35 mail services.'

36 (3) 'Bundled transaction' means the retail sale of two or more products, except real
37 property and services to real property, where the products are otherwise distinct and
38 identifiable and the products are sold for one nonitemized price. A 'bundled transaction'
39 does not include the sale of any products in which the 'sales price' varies, or is negotiable,
40 based on the selection by the purchaser of the products included in the transaction.

41 (A) 'Distinct and identifiable products' shall not include:

42 (i) Packaging such as containers, boxes, sacks, bags, and bottles or other materials
43 such as wrapping, labels, tags, and instruction guides, that accompanies the 'retail sale'
44 of the products and are incidental or immaterial to the 'retail sale' thereof. Examples
45 of packaging that are incidental or immaterial include grocery sacks, shoe boxes, dry
46 cleaning garment bags, and express delivery envelopes and boxes.

47 (ii) A product provided free of charge with the required purchase of another product.
48 A product is 'provided free of charge' if the 'sales price' of the product purchased does
49 not vary depending on the inclusion of the product 'provided free of charge.'

50 (iii) Items included in the 'sales price.'

51 (B) The term 'one nonitemized price' shall not include a price that is separately
52 identified by product on binding sales or other supporting sales related documentation
53 made available to the customer in paper or electronic form including, but not limited
54 to, an invoice, bill of sale, receipt, contract, service agreement, lease agreement,
55 periodic notice of rates and services, rate card, or price list.

56 (C) A transaction that otherwise meets the definition of a 'bundled transaction' as
57 defined above, is not a 'bundled transaction' if it is:

58 (i) The 'retail sale' of tangible personal property and a service where the tangible
59 personal property is essential to the use of the service, and is provided exclusively in
60 connection with the service, and the true object of the transaction is the service;

61 (ii) The 'retail sale' of services where one service is provided that is essential to the
62 use or receipt of a second service and the first service is provided exclusively in
63 connection with the second service and the true object of the transaction is the second
64 service;

65 (iii)(I) A transaction that includes taxable products and nontaxable products and the
 66 'purchase price' or 'sales price' of the taxable products is de minimis. As used in this
 67 subparagraph the term, 'de minimis' means the seller's 'purchase price' or 'sales price'
 68 of the taxable product is 10 percent or less of the total 'purchase price' or 'sales price'
 69 of the bundled products.

70 (II) Sellers shall use either the 'purchase price' or the 'sales price' of the products to
 71 determine if the taxable products are de minimis. Sellers may not use a combination
 72 of the 'purchase price' and 'sales price' of the products to determine if the taxable
 73 products are de minimis.

74 (III) Sellers shall use the full term of a service contract to determine if the taxable
 75 products are de minimis; or

76 (iv) The 'retail sale' of exempt tangible personal property and taxable tangible
 77 personal property where:

78 (I) The transaction includes 'food and food ingredients,' 'drugs,' 'durable medical
 79 equipment,' 'mobility enhancing equipment,' 'over-the-counter drugs,' or 'prosthetic
 80 devices'; and

81 (II) The seller's 'purchase price' or 'sales price' of the taxable tangible personal
 82 property is 50 percent or less of the total 'purchase price' or 'sales price' of the
 83 bundled tangible personal property. Sellers may not use a combination of the
 84 'purchase price' and 'sales price' of the tangible personal property when making the
 85 50 percent determination for a transaction.

86 (4) 'Business' means any activity engaged in by any person or caused to be engaged in
 87 by any person with the object of direct or indirect gain, benefit, or advantage.

88 ~~(2) 'Cost price' means the actual cost of articles of tangible personal property without any~~
 89 ~~deductions for the cost of materials used, labor costs, service costs, transportation~~
 90 ~~charges, or any other expenses of any kind.~~

91 (5) 'Coin-operated telephone service' means a 'telecommunications service' paid for by
 92 inserting money into a telephone accepting direct deposits of money to operate.

93 (6) 'Computer software' means a set of coded instructions designed to cause a computer
 94 or automatic data processing equipment to perform a task.

95 (7) 'Conference bridging service' means an ancillary service that links two or more
 96 participants of an audio or video conference call and may include the provision of a
 97 telephone number. 'Conference bridging service' shall not include the telecommunications
 98 services used to reach the conference bridge.

99 ~~(3)~~(8) 'Dealer' means every person who:

100 (A) Has sold at retail, used, consumed, distributed, or stored for use or consumption
 101 in this state tangible personal property and who cannot prove that the tax levied by this

102 article has been paid on the sale at retail or on the use, consumption, distribution, or
 103 storage of the tangible personal property;

104 (B) Imports or causes to be imported tangible personal property from any state or
 105 foreign country for sale at retail, or for use, consumption, distribution, or storage for use
 106 or consumption in this state;

107 (C) Is the lessee or renter of tangible personal property and who pays to the owner of
 108 the property a consideration for the use or possession of the property without acquiring
 109 title to the property;

110 (D) Leases or rents tangible personal property for a consideration, permitting the use
 111 or possession of the property without transferring title to the property;

112 (E) Maintains or has within this state, indirectly or by a subsidiary, an office,
 113 distribution center, salesroom or sales office, warehouse, service enterprise, or any
 114 other place of business;

115 (F) Manufactures or produces tangible personal property for sale at retail or for use,
 116 consumption, distribution, or storage for use or consumption in this state;

117 (G) Sells at retail, offers for sale at retail, or has in his possession for sale at retail, or
 118 for use, consumption, distribution, or storage for use or consumption in this state
 119 tangible personal property;

120 (H) Solicits business by an agent, employee, representative, or any other person;

121 (I) Engages in the regular or systematic solicitation of a consumer market in this state,
 122 unless the dealer's only activity in this state is:

123 (i) Advertising or solicitation by:

124 (I) Direct mail, catalogs, periodicals, or advertising fliers;

125 (II) Means of print, radio, or television media; or

126 (III) Telephone, computer, the Internet, cable, microwave, or other communication
 127 system; or

128 (ii) The delivery of tangible personal property within this state solely by common
 129 carrier or United States mail.

130 The exceptions provided in divisions (i) and (ii) of this subparagraph shall not apply to
 131 any requirements under Code Section 48-8-14;

132 (J) Is an affiliate that sells at retail, offers for sale at retail in this state, or engages in
 133 the regular or systematic solicitation of a consumer market in this state through a
 134 related dealer located in this state unless:

135 (i) The in-state dealer to which the affiliate is related does not engage in any of the
 136 following activities on behalf of the affiliate:

137 (I) Advertising;

138 (II) Marketing;

139 (III) Sales; or

140 (IV) Other services; and

141 (ii) The in-state dealer to which the affiliate is related accepts the return of tangible
142 personal property sold by the affiliate and also accepts the return of tangible personal
143 property sold by any person or dealer that is not an affiliate on the same terms and
144 conditions as an affiliate's return;

145 As used in this subparagraph, the term 'affiliate' means any person that is related
146 directly or indirectly through one or more intermediaries, controls, is controlled by, is
147 under common control with, or is subject to the control of a dealer described in
148 subparagraphs (A) through (I) of this paragraph or in this subparagraph;

149 (K) Notwithstanding any of the provisions contained in this paragraph, with respect to
150 a person that is not a resident or domiciliary of Georgia, that does not engage in any
151 other business or activity in Georgia, and that has contracted with a commercial printer
152 for printing to be conducted in Georgia, such person shall not be deemed a 'dealer' in
153 Georgia merely because such person:

154 (i) Owns tangible or intangible property which is located at the Georgia premises of
155 a commercial printer for use by such printer in performing services for the owner;

156 (ii) Makes sales and distributions of printed material produced at and shipped or
157 distributed from the Georgia premises of the commercial printer;

158 (iii) Performs activities of any kind at the Georgia premises of the commercial printer
159 which are directly related to the services provided by the commercial printer; or

160 (iv) Has printing, including any printing related activities, and distribution related
161 activities performed by the commercial printer in Georgia for or on its behalf,

162 nor shall such person, absent any contact with Georgia other than with or through the
163 use of the commercial printer or the use of the United States Postal Service or a
164 common carrier, have an obligation to collect sales or use tax from any of its customers
165 located in Georgia based upon the activities described in divisions (i) through (iv) of
166 this subparagraph. In no event described in this subparagraph shall such person be
167 considered to have a fixed place of business in Georgia at either the commercial
168 printer's premises or at any place where the commercial printer performs services on
169 behalf of that person;

170 (L) Each dealer shall collect the tax imposed by this article from the purchaser, lessee,
171 or renter, as applicable, and no action seeking either legal or equitable relief on a sale,
172 lease, rental, or other transaction may be had in this state by the dealer unless the dealer
173 has fully complied with this article; or

174 (M) The commissioner shall promulgate such rules and regulations necessary to
 175 administer this paragraph, including other such information, applications, forms, or
 176 statements as the commissioner may reasonably require.

177 (9) 'Delivered electronically' means delivered to the purchaser by means other than
 178 tangible storage media.

179 (10) 'Delivery charges' means charges by the seller of personal property or services for
 180 preparation and delivery to a location designated by the purchaser of personal property
 181 or services including, but not limited to, transportation, shipping, postage, handling,
 182 crating, and packing.

183 (11) 'Detailed telecommunications billing service' means an ancillary service of
 184 separately stating information pertaining to individual calls on a customer's billing
 185 statement.

186 (12) 'Direct mail' means printed material delivered or distributed by United States mail
 187 or other delivery service to a mass audience or to addressees on a mailing list provided
 188 by the purchaser or at the direction of the purchaser when the costs of the items are not
 189 billed directly to the recipients. 'Direct mail' includes tangible personal property supplied
 190 directly or indirectly by the purchaser to the direct mail seller for inclusion in the package
 191 containing the printed material. 'Direct mail' does not include multiple items of printed
 192 material delivered to a single address.

193 (13) 'Directory assistance' means an ancillary service of providing telephone number
 194 information or address information, or both.

195 (14) 'Drug' means a compound, substance, or preparation, and any component of a
 196 compound, substance, or preparation, other than 'food and food ingredients,' 'dietary
 197 supplements,' or 'alcoholic beverages':

198 (A) Recognized in the official United States Pharmacopoeia, official Homeopathic
 199 Pharmacopoeia of the United States, or official National Formulary, or supplement to
 200 any of them;

201 (B) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of
 202 disease; or

203 (C) Intended to affect the structure or any function of the body.

204 (15) 'Durable medical equipment' means equipment including repair and replacement
 205 parts for the same, but does not include 'mobility enhancing equipment,' which:

206 (A) Can withstand repeated use;

207 (B) Is primarily and customarily used to serve a medical purpose;

208 (C) Generally is not useful to a person in the absence of illness or injury; and

209 (D) Is not worn in or on the body.

210 ~~(4) 'Gross sales' means the:~~

211 ~~(A) Sum total of all retail sales of tangible personal property or services without any~~
 212 ~~deduction of any kind other than as provided in this article; or~~

213 ~~(B)(i) Charges, when applied to sales of telephone service, made for local exchange~~
 214 ~~telephone service, except local messages which are paid for by inserting coins in coin~~
 215 ~~operated telephones, but including the total amount of the guaranteed charge for~~
 216 ~~semipublic coin box telephone services, except as otherwise provided in division (ii)~~
 217 ~~of this subparagraph.~~

218 ~~(ii)(I) If a telephone service is not subject to the tax levied by this chapter, and if~~
 219 ~~the amount charged for such telephone service is aggregated with and not separately~~
 220 ~~stated from the amount paid or charged for any service that is subject to such tax,~~
 221 ~~then the nontaxable telephone service shall be treated as being subject to such tax~~
 222 ~~unless the telephone service provider can reasonably identify the amount paid or~~
 223 ~~charged for the telephone service not subject to such tax from its books and records~~
 224 ~~kept in the regular course of business.~~

225 ~~(H) If a telephone service is not subject to the tax levied by this chapter, a customer~~
 226 ~~may not rely upon the nontaxability of such telephone service unless the telephone~~
 227 ~~service provider separately states the amount charged for such nontaxable telephone~~
 228 ~~service or the telephone service provider elects, after receiving a written request~~
 229 ~~from the customer in the form required by the provider, to provide verifiable data~~
 230 ~~based upon the provider's books and records that are kept in the regular course of~~
 231 ~~business that reasonably identifies the amount charged for such nontaxable~~
 232 ~~telephone service.~~

233 (16) 'Food and food ingredients' means substances, whether in liquid, concentrated, solid,
 234 frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and
 235 are consumed for their taste or nutritional value. 'Food and food ingredients' shall not
 236 include alcoholic beverages or tobacco unless specifically provided otherwise.

237 ~~(5)~~(17) 'Lease or rental' means the leasing or renting of tangible personal property and
 238 the possession or use of the property by the lessee or renter for a consideration without
 239 transfer of the title to the property any transfer of possession or control of tangible
 240 personal property for a fixed or indeterminate term for consideration. A lease or rental
 241 may include future options to purchase or extend. 'Lease or rental' shall not include:

242 (A) A transfer of possession or control of property under a security agreement or
 243 deferred payment plan that requires the transfer of title upon completion of the required
 244 payments;

245 (B) A transfer of possession or control of property under an agreement that requires the
 246 transfer of title upon completion of required payments and payment of an option price

247 does not exceed the greater of one hundred dollars or one percent of the total required
 248 payments; or

249 (C) Providing tangible personal property along with an operator for a fixed or
 250 indeterminate period of time. A condition of this exclusion is that the operator is
 251 necessary for the equipment to perform as designed. For the purpose of this
 252 subparagraph, an operator must do more than maintain, inspect, or install the tangible
 253 personal property.

254 (18) 'Load and leave' means delivery to the purchaser by use of a tangible storage media
 255 where the tangible storage media is not physically transferred to the purchaser.

256 (19) 'Mobile wireless service' means a telecommunications service that is transmitted,
 257 conveyed, or routed regardless of the technology used, by which the origination or
 258 termination points, or both, of the transmission, conveyance, or routing are not fixed,
 259 including, by way of example only, telecommunications services that are provided by a
 260 commercial mobile radio service provider.

261 (20) 'Mobility enhancing equipment' means equipment including repair and replacement
 262 parts to the same, but does not include 'durable medical equipment,' which:

263 (A) Is primarily and customarily used to provide or increase the ability to move from
 264 one place to another and which is appropriate for use either in a home or a motor
 265 vehicle;

266 (B) Is not generally used by persons with normal mobility; and

267 (C) Does not include any motor vehicle or equipment on a motor vehicle normally
 268 provided by a motor vehicle manufacturer.

269 (21) 'Place of primary use' means the street address representative of where the
 270 customer's use of the telecommunications service primarily occurs, which must be the
 271 residential street address or the primary business street address of the customer. In the
 272 case of mobile telecommunications services, 'place of primary use' must be within the
 273 licensed service area of the home service provider.

274 (22) 'Prepaid calling service' means the right to access exclusively 'telecommunications
 275 services,' which must be paid for in advance and which enables the origination of calls
 276 using an access number or authorization code, whether manually or electronically dialed,
 277 and that is sold in predetermined units or dollars of which the number declines with use
 278 in a known amount.

279 ~~(5.1)~~(23) 'Prepaid local tax' means any local sales and use tax which is levied on the sale
 280 or use of motor fuel and imposed in an area consisting of less than the entire state,
 281 however authorized, including, but not limited to, such taxes authorized by or pursuant
 282 to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10,
 283 1965 (Ga. L. 1965, p. 2243), as amended, known as the 'Metropolitan Atlanta Rapid

284 Transit Authority Act of 1965'; or by or pursuant to Article 2, 2A, 3, or 4 of this chapter.
 285 Such tax is based on the same average retail sales price as set forth in subparagraph
 286 (b)(2)(B) of Code Section 48-9-14. Such price shall be used to compute the prepaid sales
 287 tax rate for local jurisdictions by multiplying such retail price by the applicable rate
 288 imposed by the jurisdiction. The person collecting and reporting the prepaid local tax for
 289 the local jurisdiction shall provide a schedule as to which jurisdiction these collections
 290 relate. This determination shall be based upon the shipping papers of the conveyance that
 291 delivered the motor fuel to the dealer or consumer in the local jurisdiction. A seller may
 292 rely upon the representation made by the purchaser as to which jurisdiction the shipment
 293 is bound and prepare shipping papers in accordance with those instructions.

294 ~~(5.2)~~(24) 'Prepaid state tax' means the tax levied under Code Section 48-8-30 in
 295 conjunction with Code Section 48-8-3.1 and Code Section 48-9-14 on the retail sale of
 296 motor fuels for highway use and collected prior to that retail sale. This tax is based upon
 297 the average retail sales price as set forth in Code Section 48-9-14.

298 (25) 'Prepaid wireless calling service' means a 'telecommunications service' that provides
 299 the right to utilize 'mobile wireless service' as well as other nontelecommunications
 300 services including the download of digital products 'delivered electronically,' content, and
 301 'ancillary services,' which must be paid for in advance that is sold in predetermined units
 302 of dollars of which the number declines with use in a known amount.

303 (26) 'Prewritten computer software' means 'computer software,' including prewritten
 304 upgrades, which is not designed and developed by the author or other creator to the
 305 specifications of a specific purchaser. The combining of two or more 'prewritten
 306 computer software' programs or prewritten portions thereof does not cause the
 307 combination to be other than 'prewritten computer software.' 'Prewritten computer
 308 software' includes software designed and developed by the author or other creator to the
 309 specifications of a specific purchaser when it is sold to a person other than the specific
 310 purchaser. Where a person modifies or enhances 'computer software' of which the person
 311 is not the author or creator, the person shall be deemed to be the author or creator only
 312 of such person's modifications or enhancements. 'Prewritten computer software' or a
 313 prewritten portion thereof that is modified or enhanced to any degree, where such
 314 modification or enhancement is designed and developed to the specifications of a specific
 315 purchaser, remains 'prewritten computer software'; provided, however, that where there
 316 is a reasonable, separately stated charge or an invoice or other statement of the price
 317 given to the purchaser for such modification or enhancement, such modification or
 318 enhancement shall not constitute 'prewritten computer software.'

319 (27) 'Prepared food' means:

320 (A) Food sold in a heated state or heated by the seller;

321 (B) Two or more food ingredients mixed or combined by the seller for sale as a single
 322 item; or

323 (C) Food sold with eating utensils provided by the seller, including plates, knives,
 324 forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container
 325 or packaging used to transport the food.

326 'Prepared food' shall not include food that is only cut, repackaged, or pasteurized by the
 327 seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods
 328 requiring cooking by the consumer as in Chapter 3, part 401.11 of the United States Food
 329 and Drug Administration Food Code so as to prevent food borne illnesses.

330 (28) 'Prescription' means an order, formula, or recipe issued in any form of oral, written,
 331 electronic, or other means of transmission by a duly licensed practitioner authorized by
 332 the laws of this state.

333 (29) 'Prosthetic device' means a replacement, corrective, or supportive device including
 334 repair and replacement parts for the same worn on or in the body to:

335 (A) Artificially replace a missing portion of the body;

336 (B) Prevent or correct physical deformity or malfunction; or

337 (C) Support a weak or deformed portion of the body.

338 (30) 'Purchase price' applies to the measure subject to use tax and has the same meaning
 339 as sales price.

340 ~~(6)~~(31) 'Retail sale' or a 'sale at retail' means: any sale, lease, or rental for any purpose
 341 other than for resale, sublease, or subrent.

342 ~~(A) A sale to a consumer or to any person for any purpose other than for resale of~~
 343 ~~tangible personal property or services taxable under this article including, but not~~
 344 ~~limited to, any such transactions which the commissioner upon investigation finds to~~
 345 ~~be in lieu of sales. Sales for resale must be made in strict compliance with the~~
 346 ~~commissioner's rules and regulations. Any dealer making a sale for resale which is not~~
 347 ~~in strict compliance with the commissioner's rules and regulations shall himself be~~
 348 ~~liable for and shall pay the tax;. The terms 'retail sale' or 'sale at retail' include but are~~
 349 ~~not limited to the following:~~

350 ~~(B)~~(A)(i) Except as otherwise provided in division (ii) of this subparagraph, the sale
 351 of natural or artificial gas, oil, electricity, solid fuel, transportation, local telephone
 352 services, alcoholic beverages, and tobacco products, when made to any purchaser for
 353 purposes other than resale.

354 (ii) The sale of electricity used directly in the manufacture of a product shall not
 355 constitute a retail sale for purposes of this article if the direct cost of such electricity
 356 exceeds 50 percent of the cost of all materials, including electricity, used directly in

357 the product and shall be exempt from taxation under this article. Such exemption
358 shall be applied to manufacturers located in this state as follows:

359 (I) For calendar years beginning on or after January 1, 1995, and prior to January
360 1, 1996, 20 percent of the direct cost of such electricity shall be exempt;

361 (II) For calendar years beginning on or after January 1, 1996, and prior to January
362 1, 1997, 40 percent of the direct cost of such electricity shall be exempt;

363 (III) For calendar years beginning on or after January 1, 1997, and prior to January
364 1, 1998, 60 percent of the direct cost of such electricity shall be exempt;

365 (IV) For calendar years beginning on or after January 1, 1998, and prior to January
366 1, 1999, 80 percent of the direct cost of such electricity shall be exempt; and

367 (V) For calendar years beginning on or after January 1, 1999, 100 percent of the
368 direct cost of such electricity shall be exempt;

369 ~~(E)~~(B) The sale or charges for any room, lodging, or accommodation furnished to
370 transients by any hotel, inn, tourist camp, tourist cabin, or any other place in which
371 rooms, lodgings, or accommodations are regularly furnished to transients for a
372 consideration. This tax shall not apply to rooms, lodgings, or accommodations supplied
373 for a period of 90 continuous days or more;

374 ~~(D)~~(C) Sales of tickets, fees, or charges made for admission to, or voluntary
375 contributions made to places of, amusement, sports, or entertainment including, but not
376 limited to:

377 (i) Billiard and pool rooms;

378 (ii) Bowling alleys;

379 (iii) Amusement devices;

380 (iv) Musical devices;

381 (v) Theaters;

382 (vi) Opera houses;

383 (vii) Moving picture shows;

384 (viii) Vaudeville;

385 (ix) Amusement parks;

386 (x) Athletic contests including, but not limited to, wrestling matches, prize fights,
387 boxing and wrestling exhibitions, football games, and baseball games;

388 (xi) Skating rinks;

389 (xii) Race tracks;

390 (xiii) Public bathing places;

391 (xiv) Public dance halls; and

392 (xv) Any other place at which any exhibition, display, amusement, or entertainment
393 is offered to the public or any other place where an admission fee is charged;

394 ~~(E)~~ Reserved;
 395 ~~(F)~~(D) Charges made for participation in games and amusement activities; or
 396 ~~(G)~~(E) Sales of tangible personal property to persons for resale when there is a
 397 likelihood that the state will lose tax funds due to the difficulty of policing the business
 398 operations because:

- 399 (i) Of the operation of the business;
 400 (ii) Of the very nature of the business;
 401 (iii) Of the turnover of so-called independent contractors;
 402 (iv) Of the lack of a place of business in which to display a certificate of registration;
 403 (v) Of the lack of a place of business in which to keep records;
 404 (vi) Of the lack of adequate records;
 405 (vii) The persons are minors or transients;
 406 (viii) The persons are engaged in essentially service businesses; or
 407 (ix) Of any other reasonable reason.

408 The commissioner may promulgate rules and regulations requiring vendors of persons
 409 described in this subparagraph to collect the tax imposed by this article on the retail
 410 price of the tangible personal property. The commissioner shall refuse to issue
 411 certificates of registration and may revoke certificates of registration issued in violation
 412 of his rules and regulations.

413 (F) Charges, which applied to sales of telephone service, made for local exchange
 414 telephone service, except coin-operated telephone service, except as otherwise provided
 415 in subparagraph (H) of this paragraph.

416 (G) If the price is attributable to products that are taxable and products that are
 417 nontaxable, the portion of the price attributable to the nontaxable products may be
 418 subject to tax unless the provider can identify by reasonable and verifiable standards
 419 such portion from its books and records that are kept in the regular course of business
 420 for other purposes, including, but not limited to, nontax purposes. If the price is
 421 attributable to products that are subject to tax at different tax rates, the total price may
 422 be treated as attributable to the products subject to tax at the highest tax rate unless the
 423 provider can identify by reasonable and verifiable standards the portion of the price
 424 attributable to the products subject to tax at the lower rate from the provider's books and
 425 records that are kept in the regular course of business for other purposes, including, but
 426 not limited to, nontax purposes.

427 ~~(7)~~(32) 'Retailer' means every person making sales at retail or for distribution, use,
 428 consumption, or storage for use or consumption in this state and has the same meaning
 429 as 'seller' in Code Section 48-8-161.

430 ~~(8)(A)(33)(A)~~ 'Sale' means any transfer of title or possession, transfer of title and
 431 possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner
 432 or by any means of any kind of tangible personal property for a consideration except
 433 as otherwise provided in subparagraph (B) of this paragraph and includes, but is not
 434 limited to:

- 435 (i) The fabrication of tangible personal property for consumers who directly or
 436 indirectly furnish the materials used in such fabrication;
- 437 (ii) The furnishing, repairing, or serving for a consideration of any tangible personal
 438 property consumed on the premises of the person furnishing, repairing, or serving the
 439 tangible personal property; or
- 440 (iii) A transaction by which the possession of property is transferred but the seller
 441 retains title as security for the payment of the price.

442 (B) Notwithstanding a dealer's physical presence, in the case of a motor vehicle retail
 443 sale or a motor vehicle lease or rental when the lease or rental period exceeds 30 days
 444 and when the purchaser or lessee is a resident of this state, the taxable situs of the
 445 transaction for the purposes of collecting local sales and use taxes shall be the county
 446 of motor vehicle registration of the purchaser or lessee.

447 ~~(9)(A)(34)(A)~~ 'Sales price' applies to the measure subject to sales tax and means the
 448 total amount of consideration, including cash, credit, property, and services, for which
 449 personal property or services are sold, leased, or rented, valued in money, whether paid
 450 received in money or otherwise, ~~for which tangible personal property or services are~~
 451 ~~sold including, but not limited to, any services that are a part of the sale and any amount~~
 452 ~~for which credit is given to the purchaser by the seller without any deduction from the~~
 453 ~~total amount for the cost of the property sold, the cost of materials used, labor or service~~
 454 ~~costs, losses, or any other expenses of any kind.~~ for the following:

- 455 (i) The seller's cost of the property sold;
- 456 (ii) The cost of materials used, labor, or service cost, interest, losses, all costs of
 457 transportation to the seller, all taxes imposed on the seller, and any other expense of
 458 the seller;
- 459 (iii) Charges by the seller for any services necessary to complete the sale, other than
 460 delivery and installation charges;
- 461 (iv) Delivery charges;
- 462 (v) Installation charges; and
- 463 (vi) Credit for any trade-in, except as otherwise provided in division (vii) of
 464 subparagraph (B) of this paragraph.

465 (B) 'Sales price' ~~does~~ shall not include:

- 466 ~~(i) Cash discounts allowed and taken on sales~~ Discounts, including cash, term, or
 467 coupons that are not reimbursed by a third party that are allowed by a seller and taken
 468 by a purchaser on a sale;
- 469 ~~(ii) The amount charged for labor or services rendered in installing, applying,~~
 470 ~~remodeling, or repairing property sold~~ Interest, financing, and carrying charges from
 471 credit extended on the sale of personal property or services, if the amount is
 472 separately stated on the invoice, bill of sale or similar document given to the
 473 purchaser; or
- 474 ~~(iii) Finance charges, carrying charges, service charges, or interest from credit~~
 475 ~~extended on sales of tangible personal property under conditional sale contracts or~~
 476 ~~other conditional contracts providing for deferred payments of the purchase price~~ Any
 477 taxes legally imposed directly on the consumer that are separately stated on the
 478 invoice, bill of sale, or similar document given to the purchaser;
- 479 (iv) Installation charges if they are separately stated on the invoice, billing, or similar
 480 document given to the purchaser;
- 481 (v) Charges by the seller for any services necessary to complete the sale if they are
 482 separately stated on the invoice, billing, or similar document given to the purchaser;
- 483 (vi) Telecommunications nonrecurring charges if they are separately stated on the
 484 invoice, billing, or similar document; and
- 485 (vii) Credit for any motor vehicle trade-in.
- 486 (C) 'Sales price' shall include consideration received by the seller from third parties if:
- 487 (i) The seller actually receives consideration from a party other than the purchaser
 488 and the consideration is directly related to a price reduction or discount on the sale;
- 489 (ii) The seller has an obligation to pass the price reduction or discount through to the
 490 purchaser;
- 491 (iii) The amount of the consideration attributable to the sale is fixed and determinable
 492 by the seller at the time of the sale of the item to the purchaser; and
- 493 (iv) One of the following criteria is met:
- 494 (I) The purchaser presents a coupon, certificate, or other documentation to the seller
 495 to claim a price reduction or discount where the coupon, certificate, or
 496 documentation is authorized, distributed, or granted by a third party with the
 497 understanding that the third party will reimburse any seller to whom the coupon,
 498 certificate, or documentation is presented;
- 499 (II) The purchaser identifies himself or herself to the seller as a member of a group
 500 or organization entitled to a price reduction or discount; provided, however, that a
 501 'preferred customer' card that is available to any patron shall not constitute
 502 membership in such a group; or

503 (III) The price reduction or discount is identified as a third party price reduction or
 504 discount on the invoice received by the purchaser or on a coupon, certificate, or
 505 other documentation presented by the purchaser.

506 (35) 'Soft drinks' means nonalcoholic beverages that contain natural or artificial
 507 sweeteners. 'Soft drinks' shall not include beverages that contain milk or milk products,
 508 soy, rice, or similar milk substitutes, or greater than 50 percent of vegetable or fruit juice
 509 by volume.

510 ~~(10)~~(36) 'Storage' means any keeping or retention in this state of tangible personal
 511 property for use or consumption in this state or for any purpose other than sale at retail
 512 in the regular course of business.

513 (37) 'Streamlined sales tax agreement' means the Streamlined Sales and Use Tax
 514 Agreement under Code Section 48-8-162.

515 ~~(11)~~(38) 'Tangible personal property' means personal property which may that can be
 516 seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the
 517 senses. 'Tangible personal property' includes electricity, water, gas, steam, and prewritten
 518 computer software. 'Tangible personal property' does not mean stocks, bonds, notes,
 519 insurance, or other obligations or securities.

520 (39) 'Telecommunications nonrecurring charges' means an amount billed for the
 521 installation, connection, change, or initiation of 'telecommunications service' received by
 522 the customer.

523 (40) 'Telecommunications service' means the electronic transmission, conveyance, or
 524 routing of voice, data, audio, video, or any other information or signals to a point, or
 525 between or among points. The term 'telecommunications service' includes such
 526 transmission, conveyance, or routing in which computer processing applications are used
 527 to act on the form, code or protocol of the content for purposes of transmission,
 528 conveyance or routing without regard to whether such service is referred to as voice over
 529 Internet protocol services or is classified by the Federal Communications Commission
 530 as enhanced or value added. 'Telecommunications service' shall not include:

531 (A) Data processing and information services that allow data to be generated, acquired,
 532 stored, processed, or retrieved and delivered by an electronic transmission to a
 533 purchaser where such purchaser's primary purpose for the underlying transaction is the
 534 processed data or information;

535 (B) Installation or maintenance of wiring or equipment on a customer's premises;

536 (C) Tangible personal property;

537 (D) Advertising, including but not limited to directory advertising;

538 (E) Billing and collection services provided to third parties;

539 (F) Internet access service;

540 (G) Radio and television audio and video programming services, regardless of the
 541 medium, including the furnishing of transmission, conveyance and routing of such
 542 services by the programming service provider. Radio and television audio and video
 543 programming services shall include but not be limited to cable service as defined in 47
 544 USC 522(6) and audio and video programming services delivered by commercial
 545 mobile radio service providers, as defined in 47 CFR 20.3;

546 (H) Ancillary services; or

547 (I) Digital products delivered electronically, including but not limited to software,
 548 music, video, reading materials, or ring tones.

549 ~~(12)~~(41) 'Use' means the exercise of any right or power over tangible personal property
 550 incident to the ownership of the property including, but not limited to, the sale at retail
 551 of the property in the regular course of business.

552 ~~(13)~~(42) 'Use tax' includes the use, consumption, distribution, and storage of tangible
 553 personal property as defined in this article.

554 (43) 'Vertical service' means an ancillary service that is offered in connection with one
 555 or more telecommunications services, which offers advanced calling features that allow
 556 customers to identify callers and to manage multiple calls and call connections, including
 557 conference bridging services.

558 (44) 'Voice mail service' means an ancillary service that enables the customer to store,
 559 send, or receive recorded messages. 'Voice mail service' does not include any vertical
 560 services that the customer may be required to have in order to utilize the voice mail
 561 service."

562 **SECTION 2.**

563 Said title is further amended by revising Code Section 48-8-3, relating to exemptions from
 564 sales and use tax, as follows:

565 "48-8-3.

566 The sales and use taxes levied or imposed by this article shall not apply to:

567 (1) Sales to the United States government, this state, any county or municipality of this
 568 state, or any bona fide department of such governments when paid for directly to the
 569 seller by warrant on appropriated government funds;

570 (2) Transactions in which tangible personal property is furnished by the United States
 571 government or by a county or municipality of this state to any person who contracts to
 572 perform services for the governmental entity for the installation, repair, or extension of
 573 any public water, gas, or sewage system of the governmental entity when the tangible
 574 personal property is installed for general distribution purposes, notwithstanding Code

575 Section 48-8-63 or any other provision of this article. No exemption is granted with
576 respect to tangible personal property installed to serve a particular property site;

577 (3) The federal retailers' excise tax if the tax is billed to the consumer separately from
578 the selling price of the product or from the tax imposed by Article 1 of Chapter 9 of this
579 title relating to motor fuel taxes;

580 (4) Sales by counties and municipalities arising out of their operation of any public
581 transit facility and sales by public transit authorities or charges by counties,
582 municipalities, or public transit authorities for the transportation of passengers upon their
583 conveyances;

584 (5)(A) Fares and charges, except charges for charter and sightseeing service, collected
585 by an urban transit system for the transportation of passengers.

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

587 (i) 'Public transit system primarily urban in character' shall include a transit system
588 operated by any entity which provides passenger transportation services by means of
589 motor vehicles having passenger-carrying capacity within or between standard
590 metropolitan areas and urban areas, as those terms are defined in Code Section
591 32-2-3, of this state.

592 (ii) 'Urban transit system' means a public transit system primarily urban in character
593 which is operated by a street railroad company or a motor common carrier, is subject
594 to the jurisdiction of the Public Service Commission, and whose fares and charges are
595 regulated by the Public Service Commission, or is operated pursuant to a franchise
596 contract with a municipality of this state so that its fares and charges are regulated by
597 or are subject to the approval of the municipality. An urban transit system certificate
598 shall be issued by the Public Service Commission, or by the municipality which has
599 regulatory authority, upon an affirmative showing that the applicant operates an urban
600 transit system. The certificate shall be obtained and filed with the commissioner and
601 shall continue in effect so long as the holder of such certificate qualifies as an urban
602 transit system. Any urban transit system certificate granted prior to January 1, 2002,
603 shall be deemed valid as of the date it was issued;

604 (6) Sales to any hospital authority created by Article 4 of Chapter 7 of Title 31;

605 (6.1) Sales to any housing authority created by Article 1 of Chapter 3 of Title 8, the
606 'Housing Authorities Law';

607 (6.2) Sales to any local government authority created on or after January 1, 1980, by
608 local law, which authority has as its principal purpose or one of its principal purposes the
609 construction, ownership, or operation of a coliseum and related facilities to be used for
610 athletic contests, games, meetings, trade fairs, expositions, political conventions,

611 agricultural events, theatrical and musical performances, conventions, or other public
612 entertainments or any combination of such purposes;

613 (6.3) Sales to any agricultural commodities commission created by and regulated
614 pursuant to Chapter 8 of Title 2;

615 (7) Sales of tangible personal property and services to a nonprofit licensed nursing home,
616 nonprofit licensed in-patient hospice, or a nonprofit general or mental hospital used
617 exclusively by such nursing home, in-patient hospice, or hospital in performing a general
618 nursing home, in-patient hospice, hospital, or mental hospital treatment function in this
619 state when such nursing home, in-patient hospice, or hospital is a tax exempt organization
620 under the Internal Revenue Code and obtains an exemption determination letter from the
621 commissioner;

622 (7.05)(A) For the period commencing on July 1, 2008, and ending on June 30, 2010,
623 sales of tangible personal property to a nonprofit health center in this state which has
624 been established under the authority of and is receiving funds pursuant to the United
625 States Public Health Service Act, 42 U. S. C. Section 254b if such health clinic obtains
626 an exemption determination letter from the commissioner.

627 (B)(i) For the purposes of this paragraph, the term 'local sales and use tax' shall mean
628 any sales tax, use tax, or local sales and use tax which is levied and imposed in an
629 area consisting of less than the entire state, however authorized, including, but not
630 limited to, such taxes authorized by or pursuant to constitutional amendment; by or
631 pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as
632 amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or
633 pursuant to Article 2, 2A, 3, or 4 of this chapter.

634 (ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply
635 to any local sales and use tax levied or imposed at any time.

636 (7.1) Sales of tangible personal property and services to a nonprofit organization, the
637 primary function of which is the provision of services to mentally retarded persons, when
638 such organization is a tax exempt organization under the Internal Revenue Code and
639 obtains an exemption determination letter from the commissioner;

640 (7.2) Sales of tangible personal property or services to any chapter of the Georgia State
641 Society of the Daughters of the American Revolution which is tax exempt under Section
642 501(c)(3) of the Internal Revenue Code and obtains an exemption determination letter
643 from the commissioner;

644 (7.3) For the period commencing July 1, 2008, and ending June 30, 2010, sales of
645 tangible personal property and services to a nonprofit volunteer health clinic which
646 primarily treats indigent persons with incomes below 200 percent of the federal poverty
647 level and which property and services are used exclusively by such volunteer health clinic

- 648 in performing a general treatment function in this state when such volunteer health clinic
 649 is a tax exempt organization under the Internal Revenue Code and obtains an exemption
 650 determination letter from the commissioner;
- 651 (8) Sales of tangible personal property and services to the University System of Georgia
 652 and its educational units;
- 653 (9) Sales of tangible personal property and services to be used exclusively for
 654 educational purposes by those private colleges and universities in this state whose
 655 academic credits are accepted as equivalents by the University System of Georgia and its
 656 educational units;
- 657 (10) Sales of tangible personal property and services to be used exclusively for
 658 educational purposes by those bona fide private elementary and secondary schools which
 659 have been approved by the commissioner as organizations eligible to receive tax
 660 deductible contributions if application for exemption is made to the department and proof
 661 of the exemption is established;
- 662 (11) Sales of tangible personal property or services to, and the purchase of tangible
 663 personal property or services by, any educational or cultural institute which:
- 664 (A) Is tax exempt under Section 501(c)(3) of the Internal Revenue Code;
- 665 (B) Furnishes at least 50 percent of its programs through universities and other
 666 institutions of higher education in support of their educational programs;
- 667 (C) Is paid for by government funds of a foreign country; and
- 668 (D) Is an instrumentality, agency, department, or branch of a foreign government
 669 operating through a permanent location in this state;
- 670 (12) School lunches sold and served to pupils and employees of public schools;
- 671 (13) Sales of ~~food to be prepared~~ food and food and food ingredients consumed ~~on the~~
 672 ~~premises~~ by pupils and employees of bona fide private elementary and secondary schools
 673 which have been approved by the commissioner as organizations eligible to receive tax
 674 deductible contributions when application for exemption is made to the department and
 675 proof of the exemption is established;
- 676 (14) Sales of objects of art and of anthropological, archeological, geological,
 677 horticultural, or zoological objects or artifacts and other similar tangible personal
 678 property to or for the use by any museum or organization which is tax exempt under
 679 Section 501(c)(3) of the Internal Revenue Code of such tangible personal property for
 680 display or exhibition in a museum within this state when the museum is open to the
 681 public and has been approved by the commissioner as an organization eligible to receive
 682 tax deductible contributions;
- 683 (15) Sales:

- 684 (A) Of any religious paper in this state when the paper is owned and operated by
685 religious institutions or denominations and no part of the net profit from the operation
686 of the institution or denomination inures to the benefit of any private person;
- 687 (B) By religious institutions or denominations when:
- 688 (i) The sale results from a specific charitable fundraising activity;
- 689 (ii) The number of days upon which the fundraising activity occurs does not exceed
690 30 in any calendar year;
- 691 (iii) No part of the gross sales or net profits from the sales inures to the benefit of any
692 private person; and
- 693 (iv) The gross sales or net profits from the sales are used for the purely charitable
694 purposes of:
- 695 (I) Relief to the aged;
- 696 (II) Church related youth activities;
- 697 (III) Religious instruction or worship; or
- 698 (IV) Construction or repair of church buildings or facilities;
- 699 (15.1) Sales of pipe organs or steeple bells to any church which is qualified as an exempt
700 religious organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as
701 amended;
- 702 (16) The sale or use of Holy Bibles, testaments, and similar books commonly recognized
703 as being Holy Scripture regardless of by or to whom sold;
- 704 (17) The sale of fuel and supplies for use or consumption aboard ships plying the high
705 seas either in intercoastal trade between ports in this state and ports in other states of the
706 United States or its possessions or in foreign commerce between ports in this state and
707 ports of foreign countries;
- 708 (18) Charges made for the transportation of tangible personal property including, but not
709 limited to, charges for accessorial services such as refrigeration, switching, storage, and
710 demurrage made in connection with interstate and intrastate transportation of the
711 property;
- 712 (19) All tangible personal property purchased outside of this state by persons who at the
713 time of purchase are not domiciled in this state but who subsequently become domiciled
714 in this state and bring the property into this state for the first time as a result of the change
715 of domicile, if the property is not brought into this state for use in a trade, business, or
716 profession;
- 717 (20) The sale of water delivered to consumers through water mains, lines, or pipes;
- 718 (21) Sales, transfers, or exchanges of tangible personal property made as a result of a
719 business reorganization when the owners, partners, or stockholders of the business being

- 720 reorganized maintain the same proportionate interest or share in the newly formed
721 business reorganization;
- 722 (22) Professional, insurance, or personal service transactions which involve sales as
723 inconsequential elements for which no separate charges are made;
- 724 (23) Fees or charges for services rendered by repairmen for which a separate charge is
725 made;
- 726 (24) The rental of videotape or motion picture film to any person who charges an
727 admission fee to view such film or videotape;
- 728 (25) The sale of seed; fertilizers; insecticides; fungicides; rodenticides; herbicides;
729 defoliants; soil fumigants; plant growth regulating chemicals; desiccants including, but
730 not limited to, shavings and sawdust from wood, peanut hulls, fuller's earth, straw, and
731 hay; and feed for livestock, fish, or poultry when used either directly in tilling the soil or
732 in animal, fish, or poultry husbandry;
- 733 (26) The sale to persons engaged primarily in producing farm crops for sale of
734 machinery and equipment which is used exclusively for irrigation of farm crops
735 including, but not limited to, fruit, vegetable, and nut crops;
- 736 (27) The sale of sugar used as food for honeybees kept for the commercial production
737 of honey, beeswax, and honeybees when the commissioner's prior approval is obtained;
- 738 (28) The sale of cattle, hogs, sheep, horses, poultry, or bees when sold for breeding
739 purposes;
- 740 (29) The sale of the following types of agricultural machinery:
- 741 (A) Machinery and equipment for use on a farm in the production of poultry and eggs
742 for sale;
- 743 (B) Machinery and equipment used in the hatching and breeding of poultry and the
744 breeding of livestock;
- 745 (C) Machinery and equipment for use on a farm in the production, processing, and
746 storage of fluid milk for sale;
- 747 (D) Machinery and equipment for use on a farm in the production of livestock for sale;
- 748 (E) Machinery and equipment which is used by a producer of poultry, eggs, fluid milk,
749 or livestock for sale for the purpose of harvesting farm crops to be used on the farm by
750 that producer as feed for poultry or livestock;
- 751 (F) Machinery which is used directly in tilling the soil or in animal husbandry when
752 the machinery is incorporated for the first time into a new farm unit engaged in tilling
753 the soil or in animal husbandry in this state;
- 754 (G) Machinery which is used directly in tilling the soil or in animal husbandry when
755 the machinery is incorporated as additional machinery for the first time into an existing
756 farm unit already engaged in tilling the soil or in animal husbandry in this state;

757 (H) Machinery which is used directly in tilling the soil or in animal husbandry when
758 the machinery is bought to replace machinery in an existing farm unit already engaged
759 in tilling the soil or in animal husbandry in this state;

760 (I) Rubber-tired farm tractors and attachments to the tractors which are sold to persons
761 engaged primarily in producing farm crops for sale and which are used exclusively in
762 tilling, planting, cultivating, and harvesting farm crops, and equipment used exclusively
763 in harvesting farm crops or in processing onion crops which are sold to persons
764 engaged primarily in producing farm crops for sale. For the purposes of this
765 subparagraph, the term 'farm crops' includes only those crops which are planted and
766 harvested within a 12 month period; and

767 (J) Pecan sprayers, pecan shakers, and other equipment used in harvesting pecans
768 which is sold to persons engaged in the growing, harvesting, and production of pecans;

769 (29.1) The sale or use of any off-road equipment and related attachments which are sold
770 to or used by persons engaged primarily in the growing or harvesting of timber and which
771 are used exclusively in site preparation, planting, cultivating, or harvesting timber.
772 Equipment used in harvesting shall include all off-road equipment and related
773 attachments used in every forestry procedure starting with the severing of a tree from the
774 ground until and including the point at which the tree or its parts in any form has been
775 loaded in the field in or on a truck or other vehicle for transport to the place of use. Such
776 off-road equipment shall include, but not be limited to, skidders, feller bunchers,
777 debarkers, delimiters, chip harvestors, tub-grinders, woods cutters, chippers of all types,
778 loaders of all types, dozers, and motor graders and the related attachments;

779 (30) The sale of a vehicle to a service-connected disabled veteran when the veteran
780 received a grant from the United States Department of Veterans Affairs to purchase and
781 specially adapt the vehicle to his disability;

782 (31) The sale of tangible personal property manufactured or assembled in this state for
783 export when delivery is taken outside this state;

784 (32) Aircraft, watercraft, motor vehicles, and other transportation equipment
785 manufactured or assembled in this state when sold by the manufacturer or assembler for
786 use exclusively outside this state and when possession is taken from the manufacturer or
787 assembler by the purchaser within this state for the sole purpose of removing the property
788 from this state under its own power when the equipment does not lend itself more
789 reasonably to removal by other means;

790 (33)(A) The sale of aircraft, watercraft, railroad locomotives and rolling stock, motor
791 vehicles, and major components of each, which will be used principally to cross the
792 borders of this state in the service of transporting passengers or cargo by common
793 carriers and by carriers who hold common carrier and contract carrier authority in

794 interstate or foreign commerce under authority granted by the United States
 795 government. Replacement parts installed by carriers in such aircraft, watercraft,
 796 railroad locomotives and rolling stock, and motor vehicles which become an integral
 797 part of the craft, equipment, or vehicle shall also be exempt from all taxes under this
 798 article;

799 (B) In lieu of any tax under this article which would apply to the purchase, sale, use,
 800 storage, or consumption of the tangible personal property described in this paragraph
 801 but for this exemption, the tax under this article shall apply with respect to all fuel
 802 purchased and delivered within this state by or to any common carrier and with respect
 803 to all fuel purchased outside this state and stored in this state irrespective, in either case,
 804 of the place of its subsequent use;

805 (33.1)(A) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport;
 806 to the extent provided in subparagraphs (B), (C), and (D) of this paragraph.

807 ~~(B) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall~~
 808 ~~be exempt from the first 1.80 percent of the 4 percent state sales and use tax imposed~~
 809 ~~by this chapter and shall be subject to the remaining 2.20 percent of the 4 percent state~~
 810 ~~sales and use tax imposed by this chapter.~~

811 ~~(C) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall~~
 812 ~~also be exempt from the sales or use tax levied and imposed as authorized pursuant to~~
 813 ~~Part 1 of Article 3 of this chapter.~~

814 ~~(D) Except as provided for in subparagraph (C) of this paragraph, this exemption shall~~
 815 ~~not apply to any other local sales and use tax levied or imposed at anytime in any area~~
 816 ~~consisting of less than the entire state, however authorized, including, but not limited~~
 817 ~~to, such taxes authorized by or pursuant to Section 25 of an Act approved March 10,~~
 818 ~~1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit~~
 819 ~~Authority Act of 1965,' or such taxes as authorized by or pursuant to Part 2 of Article~~
 820 ~~3 or Article 2, 2A, or 4 of this chapter.~~

821 ~~(E)~~(B) For purposes of this paragraph, a 'qualifying airline' shall mean any person
 822 which is authorized by the Federal Aviation Administration or appropriate agency of
 823 the United States to operate as an air carrier under an air carrier operating certificate
 824 and which provides regularly scheduled flights for the transportation of passengers or
 825 cargo for hire.

826 ~~(F)~~(C) For purposes of this paragraph, a 'qualifying airport' shall mean any airport in
 827 the state that has had more than 750,000 takeoffs and landings during a calendar year.

828 ~~(G)~~(D) The commissioner shall adopt rules and regulations to carry out the provisions
 829 of this paragraph.

830 ~~(H) The exemption provided for in this paragraph shall apply only as to transactions~~
831 ~~occurring on or after July 1, 2009, and prior to July 1, 2011;~~

832 (34) The sale of the following types of manufacturing machinery:

833 (A) Machinery or equipment which is necessary and integral to the manufacture of
834 tangible personal property when the machinery or equipment is bought to replace or
835 upgrade machinery or equipment in a manufacturing plant presently existing in this
836 state and machinery or equipment components which are purchased to upgrade
837 machinery or equipment which is necessary and integral to the manufacture of tangible
838 personal property in a manufacturing plant;

839 (B) Machinery or equipment which is necessary and integral to the manufacture of
840 tangible personal property when the machinery or equipment is used for the first time
841 in a new manufacturing plant located in this state;

842 (C) Machinery or equipment which is necessary and integral to the manufacture of
843 tangible personal property when the machinery or equipment is used as additional
844 machinery or equipment for the first time in a manufacturing plant presently existing
845 in this state; and

846 (D) Any person making a sale of machinery or equipment for the purpose specified in
847 subparagraph (B) of this paragraph shall collect the tax imposed on the sale by this
848 article unless the purchaser furnishes him with a certificate issued by the commissioner
849 certifying that the purchaser is entitled to purchase the machinery or equipment without
850 paying the tax. As a condition precedent to the issuance of the certificate, the
851 commissioner, at the commissioner's discretion, may require a good and valid bond
852 with a surety company authorized to do business in this state as surety or may require
853 legal securities, in an amount fixed by the commissioner, conditioned upon payment by
854 the purchaser of all taxes due under this article in the event it should be determined that
855 the sale fails to meet the requirements of this subparagraph;

856 (34.1)(A) The sale of primary material handling equipment which is used for the
857 handling and movement of tangible personal property and racking systems used for the
858 conveyance and storage of tangible personal property in a warehouse or distribution
859 facility located in this state when such equipment is either part of an expansion worth
860 \$5 million or more of an existing warehouse or distribution facility or part of the
861 construction of a new warehouse or distribution facility where the total value of all real
862 and personal property purchased or acquired by the taxpayer for use in the warehouse
863 or distribution facility is worth \$5 million or more.

864 (B) In order to qualify for the exemption provided for in subparagraph (A) of this
865 paragraph, a warehouse or distribution facility may not make retail sales from such
866 facility to the general public if the total of the retail sales equals or exceeds 15 percent

867 of the total revenues of the warehouse or distribution facility. If retail sales are made
868 to the general public by a warehouse or distribution facility and at any time the total of
869 the retail sales equals or exceeds 15 percent of the total revenues of the facility, the
870 taxpayer will be disqualified from receiving such exemption as of the date such 15
871 percent limitation is met or exceeded. The taxpayer may be required to repay any tax
872 benefits received under subparagraph (A) of this paragraph on or after that date plus
873 penalty and interest as may be allowed by law;

874 (34.2)(A) The sale or use of machinery or equipment, or both, which is used in the
875 remanufacture of aircraft engines or aircraft engine parts or components in a
876 remanufacturing facility located in this state. For purposes of this paragraph,
877 'remanufacture of aircraft engines or aircraft engine parts or components' means the
878 substantial overhauling or rebuilding of aircraft engines or aircraft engine parts or
879 components.

880 (B) Any person making a sale of machinery or equipment, or both, for the
881 remanufacture of aircraft engines or aircraft engine parts or components shall collect
882 the tax imposed on the sale by this article unless the purchaser furnishes a certificate
883 issued by the commissioner certifying that the purchaser is entitled to purchase the
884 machinery or equipment without paying the tax;

885 (34.3)(A) The sale or use of repair or replacement parts, machinery clothing or
886 replacement machinery clothing, molds or replacement molds, dies or replacement dies,
887 waxes, and tooling or replacement tooling for machinery which is necessary and
888 integral to the manufacture of tangible personal property in a manufacturing plant
889 presently existing in this state.

890 (B) The commissioner shall promulgate rules and regulations to implement and
891 administer this paragraph;

892 (34.4)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary,
893 sales of tangible personal property to, or used in or for the construction of, an
894 alternative fuel facility primarily dedicated to the production and processing of ethanol,
895 biodiesel, butanol, and their by-products, when such fuels are derived from biomass
896 materials such as agricultural products, or from animal fats, or the wastes of such
897 products or fats.

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

899 (i) 'Alternative fuel facility' means any facility located in this state which is primarily
900 dedicated to the production and processing of ethanol, biodiesel, butanol, and their
901 by-products for sale.

902 (ii) 'Used in or for the construction' means any tangible personal property
903 incorporated into a new alternative fuel facility that loses its character of tangible

904 personal property. Such term does not mean tangible personal property that is
905 temporary in nature, leased or rented, tools, or other items not incorporated into the
906 facility.

907 (C) Any person making a sale of tangible personal property for the purpose specified
908 in this paragraph shall collect the tax imposed on this sale unless the purchaser
909 furnishes an exemption certificate issued by the commissioner certifying that the
910 purchaser is entitled to purchase the tangible personal property without payment of tax.

911 (D) Any corporation, partnership, limited liability company, or any other entity or
912 person that qualifies for this exemption must conduct at least a majority of its business
913 with entities or persons with which it has no affiliation.

914 (E) The exemption provided for under subparagraph (A) of this paragraph shall not
915 apply to sales of tangible personal property that occur after the production and
916 processing of biodiesel, ethanol, butanol, and their by-products has begun at the
917 alternative fuel facility.

918 (F) The exemption provided for under subparagraph (A) of this paragraph shall apply
919 only to sales occurring during the period July 1, 2007, through June 30, 2012.

920 (G) The commissioner shall promulgate any rules and regulations necessary to
921 implement and administer this paragraph;

922 (35)(A) The sale, use, storage, or consumption of:

923 (i) Industrial materials for future processing, manufacture, or conversion into articles
924 of tangible personal property for resale when the industrial materials become a
925 component part of the finished product;

926 (ii) Industrial materials other than machinery and machinery repair parts that are
927 coated upon or impregnated into the product at any stage of its processing,
928 manufacture, or conversion; or

929 (iii) Materials, containers, labels, sacks, or bags used for packaging tangible personal
930 property for shipment or sale. To qualify for the packaging exemption, the items shall
931 be used solely for packaging and shall not be purchased for reuse;

932 (B) As used in this paragraph, the term 'industrial materials' does not include natural
933 or artificial gas, oil, gasoline, electricity, solid fuel, ice, or other materials used for heat,
934 light, power, or refrigeration in any phase of the manufacturing, processing, or
935 converting process;

936 (36)(A) The sale of machinery and equipment and any repair, replacement, or
937 component parts for such machinery and equipment which is used for the primary
938 purpose of reducing or eliminating air or water pollution;

939 (B) Any person making a sale of machinery and equipment or repair, replacement, or
940 component parts for such machinery and equipment for the purposes specified in this

941 paragraph shall collect the tax imposed on the sale by this article unless the purchaser
942 furnishes him with a certificate issued by the commissioner certifying that the purchaser
943 is entitled to purchase the machinery and equipment or repair, replacement, or
944 component parts for such machinery and equipment without paying the tax;

945 (36.1)(A) The sale of machinery and equipment which is incorporated into any
946 qualified water conservation facility and used for water conservation.

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

948 (i) 'Qualified water conservation facility' means any facility, including buildings, and
949 any machinery and equipment used in the water conservation process resulting in a
950 minimum 10 percent reduction in permit by relinquishment or transfer of annual
951 permitted water usage from existing permitted ground-water sources. In addition,
952 such facility shall have been certified pursuant to rules and regulations promulgated
953 by the Department of Natural Resources as necessary to promote its ground-water
954 management efforts for areas with a multiyear record of consumption at, near, or
955 above sustainable use signaled by declines in ground-water pressure, threats of
956 salt-water intrusion, need to develop alternate sources to accommodate economic
957 growth and development, or any other indication of growing inadequacy of the
958 existing resource.

959 (ii) 'Water conservation' means a minimum 10 percent reduction resulting in the
960 relinquishment of transfer of annual permitted water usage from existing
961 ground-water sources due to increased manufacturing process efficiencies or
962 recycling of manufacturing process water which results in reduced ground-water
963 usage, or a change from a ground-water source to a surface-water source or an
964 alternate source.

965 (C) Any person making a sale of machinery and equipment for the purposes specified
966 in this paragraph shall collect the tax imposed on this sale unless the purchaser
967 furnishes such person with a certificate issued by the commissioner certifying that the
968 purchaser is entitled to purchase the machinery and equipment without paying the tax;

969 (37) The sale of machinery and equipment for use in combating air and water pollution
970 and any industrial material bought for further processing in the manufacture of tangible
971 personal property for sale or any part of the industrial material or by-product thereof
972 which becomes a wasteful product contributing to pollution problems and which is used
973 up in a recycling or burning process. Any person making a sale of machinery and
974 equipment for the purposes specified in this paragraph shall collect a tax imposed on the
975 sale by this article unless the purchaser furnishes the person making the sale with a
976 certificate issued by the commissioner certifying that the purchaser is entitled to purchase
977 the machinery, equipment, or industrial material without paying the tax;

978 (38) Sales of tangible personal property and fees and charges for services by the Rock
979 Eagle 4-H Center;

980 (39) Sales by any public or private school containing any combination of grades
981 kindergarten through 12 of tangible personal property, concessions, or tickets for
982 admission to a school event or function, provided that the net proceeds from such sales
983 are used solely for the benefit of such public or private school or its students;

984 (39.1) The use of cargo containers and their related chassis which are owned by or leased
985 to persons engaged in the international shipment of cargo by ocean-going vessels which
986 containers and chassis are directly used for the storage and shipment of tangible personal
987 property in or through this state in intrastate or interstate commerce;

988 (40) The sale of major components and repair parts installed in military craft, vehicles,
989 and missiles;

990 (41)(A) Sales of tangible personal property and services to a child-caring institution
991 as defined in paragraph (1) of Code Section 49-5-3, as amended; a child-placing agency
992 as defined in paragraph (2) of Code Section 49-5-3, as amended; or a maternity home
993 as defined in paragraph (14) of Code Section 49-5-3, as amended, when such
994 institution, agency, or home is engaged primarily in providing child services and is a
995 nonprofit, tax-exempt organization under Section 501(c)(3) of the Internal Revenue
996 Code and obtains an exemption determination letter from the commissioner; and

997 (B) Sales by an institution, agency, or home as described in subparagraph (A) of this
998 paragraph when:

999 (i) The sale results from a specific charitable fundraising activity;

1000 (ii) The number of days upon which the fundraising activity occurs does not exceed
1001 30 in any calendar year;

1002 (iii) No part of the gross sales or net profits from the sales inures to the benefit of any
1003 private person; and

1004 (iv) The gross sales or net profits from the sales are used purely for charitable
1005 purposes in providing child services;

1006 (42) The use by, or lease or rental of tangible personal property to, a person who acquires
1007 the property from another person where both persons are under 100 percent common
1008 ownership and where the person who furnishes, leases, or rents the property has:

1009 (A) Previously paid sales or use tax on the property; or

1010 (B) Been credited under Code Section 48-8-42 with paying a sales or use tax on the
1011 property so furnished, leased, or rented, and the tax credited is based upon the fair
1012 rental or lease value of the property;

1013 (43) Gross revenues generated from all bona fide coin operated amusement machines
1014 which vend or dispense music or are operated for skill, amusement, entertainment, or

1015 pleasure which are in commercial use and are provided to the public for play which will
1016 require a permit fee under Chapter 17 of this title;

1017 (44) Sales of motor vehicles, as defined in Code Section 48-5-440, to nonresident
1018 purchasers for immediate transportation to and use in another state in which the vehicles
1019 are required to be registered, provided the seller obtains from the purchaser and retains
1020 an affidavit stating the name and address of the purchaser, the state in which the vehicle
1021 will be registered and operated, the make, model, and serial number of the vehicle, and
1022 such other information as the commissioner may require;

1023 (45) The sale, use, storage, or consumption of paper stock which is manufactured in this
1024 state into catalogs intended to be delivered outside this state for use outside this state;

1025 (46) Sales to blood banks having a nonprofit status pursuant to Section 501(c)(3) of the
1026 Internal Revenue Code;

1027 (47)(A)(i) The sale or use of controlled substances and ~~dangerous~~ drugs which are
1028 lawfully dispensed by prescription for the treatment of natural persons, and sales of
1029 prescription eyeglasses and contact lenses including, without limitation, prescription
1030 contact lenses distributed by the manufacturer to licensed dispensers as free samples
1031 not intended for resale and labeled as such.

1032 (ii) The sale or use of those controlled substances and ~~dangerous~~ drugs lawfully
1033 dispensable by prescription for the treatment of natural persons which are dispensed
1034 or distributed without charge to physicians, dentists, clinics, hospitals, or any other
1035 person or entity located in Georgia by a pharmaceutical manufacturer or distributor;
1036 and the use of controlled substances, ~~dangerous~~ drugs, new animal drugs, and medical
1037 devices lawfully dispensed or distributed without charge solely for the purposes of a
1038 clinical trial approved by either the United States Food and Drug Administration or
1039 by an institutional review board.

1040 (B) For purposes of this paragraph, the term:

1041 (i) 'Controlled substance' means the same as provided in Code Section 16-13-1.

1042 (ii) '~~Dangerous drug~~ Drug' means the same as provided in Code Section ~~16-13-1~~
1043 48-8-2.

1044 (iii) 'Institutional review board' means an institutional review board as provided in
1045 21 C.F.R. Section 56.

1046 (iv) 'Medical device' means a device as defined in subsection (h) of 21 U.S.C.
1047 Section 321.

1048 (v) 'New animal drug' means a new animal drug as defined in subsection (v) of 21
1049 U.S.C. Section 321.

1050 (C) The commissioner is authorized to prescribe forms and promulgate rules and
1051 regulations deemed necessary in order to administer and effectuate this paragraph;

- 1052 (48) Sales to licensed commercial fishermen of bait for taking crabs and the use by
 1053 licensed commercial fishermen of bait for taking crabs;
- 1054 (49) Sales of liquefied petroleum gas or other fuel used in a structure in which broilers,
 1055 pullets, or other poultry are raised;
- 1056 (49.1)(A) From July 1, 2008, until June 30, 2010, the sale or use of liquefied petroleum
 1057 gas or other fuel used in a structure in which swine are raised.
- 1058 (B)(i) For the purposes of this paragraph, the term 'local sales and use tax' shall mean
 1059 any sales tax, use tax, or local sales and use tax which is levied and imposed in an
 1060 area consisting of less than the entire state, however authorized, including, but not
 1061 limited to, such taxes authorized by or pursuant to constitutional amendment; by or
 1062 pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as
 1063 amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or
 1064 pursuant to Article 2 of this chapter; by or pursuant to Article 2A of this chapter; by
 1065 or pursuant to Part 1 of Article 3 of this chapter; by or pursuant to Part 2 of Article 3
 1066 of this chapter; and by or pursuant to Article 4 of this chapter.
- 1067 (ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply
 1068 to any local sales and use tax levied or imposed at any time;
- 1069 (50) Sales of blood measuring devices, other monitoring equipment, or insulin delivery
 1070 systems used exclusively by diabetics and sales of insulin, insulin syringes, and blood
 1071 glucose level measuring strips dispensed without a prescription;
- 1072 (51) Sales of oxygen prescribed by a licensed physician;
- 1073 (52) ~~The sale or use of hearing aids~~ Reserved;
- 1074 (53) Sales transactions for which food stamps or WIC coupons are used as the medium
 1075 of exchange;
- 1076 (54) The sale or use of any durable medical equipment or prosthetic device prescribed
 1077 by a physician;
- 1078 (55) The sale of lottery tickets authorized by Chapter 27 of Title 50;
- 1079 (56) Sales by any parent-teacher organization qualified as a tax exempt organization
 1080 under Section 501(c)(3) of the Internal Revenue Code;
- 1081 (57)(A) ~~The sale for off-premises human consumption or use of eligible foods and~~
 1082 ~~beverages~~ of food and food ingredients, to the extent provided in subparagraph (B) of
 1083 this paragraph.
- 1084 ~~(B) A transaction described in subparagraph (A) of this paragraph shall be exempt~~
 1085 ~~from sales and use tax only if occurring on or after October 1, 1996, and only to the~~
 1086 ~~extent set forth in divisions (i) through (iii) of this subparagraph as follows:~~

1087 ~~(i) For a transaction occurring during the period from October 1, 1996, through~~
 1088 ~~September 30, 1997, to the extent of 50 percent of that amount on which, but for this~~
 1089 ~~paragraph, sales and use tax would be levied or imposed;~~

1090 ~~(ii) For a transaction occurring during the period from October 1, 1997, through~~
 1091 ~~September 30, 1998, to the extent of 75 percent of that amount on which, but for this~~
 1092 ~~paragraph, sales and use tax would be levied or imposed; and~~

1093 ~~(iii) For a transaction occurring on or after October 1, 1998, to the extent of 100~~
 1094 ~~percent of that amount on which, but for this paragraph, sales and use tax would be~~
 1095 ~~levied or imposed.~~

1096 ~~(C)(B)~~ For the purposes of this paragraph, 'eligible food and beverages' means any
 1097 food as defined in Section 3 of the federal Food Stamp Act of 1977 (P.L. 95-113), as
 1098 amended, 7 U.S.C.A. 2012(g), as such Act existed on January 1, 1996, except that
 1099 eligible food and beverages shall not include seeds or plants to grow food and shall not
 1100 include food or drink dispensed by or through vending machines or related operations
 1101 'food and food ingredients' shall not include prepared food, alcoholic beverages, or
 1102 tobacco.

1103 ~~(D)(i)(C)(i)~~ The exemption provided for in this paragraph shall not apply to any local
 1104 sales and use tax levied or imposed at any time by or pursuant to Article 3 of this
 1105 chapter.

1106 ~~(ii)~~ Except as otherwise provided in division (i) of this subparagraph, the exemption
 1107 provided for in this paragraph shall not apply to any local sales and use tax which is
 1108 effective before October 1, 1996, notwithstanding any provisions to the contrary in
 1109 the law authorizing or imposing such tax.

1110 ~~(iii)~~ Except as otherwise provided in divisions (i) and (iv) of this subparagraph, the
 1111 exemption provided for in this paragraph shall apply with respect to any local sales
 1112 and use tax which becomes effective on or after October 1, 1996, but such exemption
 1113 shall apply only as to transactions occurring on or after October 1, 1998,
 1114 notwithstanding any provision to the contrary in the law authorizing or imposing such
 1115 tax.

1116 ~~(iv)~~ The exemption provided for in this paragraph shall apply to any local sales and
 1117 use tax levied or imposed at any time by or pursuant to Article 2A of this chapter.

1118 ~~(v)(ii)~~ For the purposes of this subparagraph, the term 'local sales and use tax' shall
 1119 mean any sales tax, use tax, or local sales and use tax which is levied and imposed in
 1120 an area consisting of less than the entire state, however authorized, including, but not
 1121 limited to, such taxes authorized by or pursuant to constitutional amendment; by or
 1122 pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as
 1123 amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or

1124 pursuant to ~~Article 2~~ of this chapter; by or pursuant to ~~Article 2A~~ of this chapter; or
 1125 ~~by or pursuant to Article 3~~ any article of this chapter.

1126 ~~(E)~~(D) The commissioner shall adopt rules and regulations to carry out the provisions
 1127 of this paragraph;

1128 (57.1)(A) From July 1, 2006, until June 30, 2010, sales of ~~eligible food and beverages~~
 1129 food ingredients to a qualified food bank.

1130 (B) As used in this paragraph, the term:

1131 (i) ~~'Eligible food and beverages'~~ means any food as defined in Section 3 of the federal
 1132 Food Stamp Act of 1977 (P.L. 95-113), as amended, 7 U.S.C.A. 2012(g), as such Act
 1133 existed on January 1, 1996, whether or not for off-premises consumption.

1134 (ii) ~~'Qualified~~ 'qualified food bank' means any food bank which is exempt from
 1135 taxation under Section 501(c)(3) of the Internal Revenue Code and which is operated
 1136 primarily for the purpose of providing hunger relief to low income persons residing
 1137 in this state.

1138 (C) ~~Any person making a sale of eligible food and beverages for the purpose specified~~
 1139 ~~in this paragraph shall collect the tax imposed on this sale unless the purchaser~~
 1140 ~~furnishes such person with an exemption determination letter issued by the~~
 1141 ~~commissioner certifying that the purchaser is entitled to purchase the eligible food and~~
 1142 ~~beverages without paying the tax.~~

1143 ~~(D)~~ The commissioner is authorized to promulgate rules and regulations deemed
 1144 necessary in order to administer and effectuate this paragraph;

1145 (57.2)(A) For the period commencing July 1, 2007, and ending on June 30, 2011, the
 1146 use of prepared food and ~~beverages~~ soft drinks which are donated to a qualified
 1147 nonprofit agency and which are used for hunger relief purposes.

1148 (B) As used in this paragraph, the term 'qualified nonprofit agency' means any entity
 1149 which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code
 1150 and which provides hunger relief.

1151 (C) ~~Any person making a donation of prepared food and beverages for the purpose~~
 1152 ~~specified in this paragraph shall remit the tax imposed thereon unless the person making~~
 1153 ~~use of such prepared food and beverages furnishes the person making the donation with~~
 1154 ~~an exemption determination letter issued by the commissioner certifying that the person~~
 1155 ~~making use of such food and beverages is entitled to use the prepared food and~~
 1156 ~~beverages without paying the tax.~~

1157 ~~(D)~~ The commissioner is authorized to promulgate rules and regulations deemed
 1158 necessary in order to administer and effectuate this paragraph;

1159 (57.3)(A) For the period commencing July 1, 2007, and ending on June 30, 2011, the
 1160 use of prepared food and ~~beverages~~ soft drinks which are donated following a natural
 1161 disaster and which are used for disaster relief purposes.

1162 (B) The commissioner is authorized to promulgate rules and regulations deemed
 1163 necessary in order to administer and effectuate this paragraph;

1164 (58)(A) Notwithstanding any provisions of this chapter to the contrary, sales to or use
 1165 by a government contractor of overhead materials in performance of a contract with the
 1166 United States government to which title passes immediately to the government under
 1167 the terms of the contract.

1168 (B) As used in this paragraph, the term:

1169 (i) 'Government contractor' means a person who enters into a contract with the United
 1170 States Department of Defense or the National Aeronautics and Space Administration
 1171 to sell services or tangible personal property, or both, for the purpose of the national
 1172 defense.

1173 (ii) 'Overhead materials' means any tangible personal property used or consumed in
 1174 the performance of a contract between the United States Department of Defense or
 1175 the National Aeronautics and Space Administration and a government contractor, the
 1176 cost of which is charged to an expense account and allocated to various United States
 1177 government contracts based upon generally accepted accounting principles, and
 1178 consistent with government contract accounting standards. The term does not include
 1179 tangible personal property which is incorporated into real property construction.

1180 (C) This paragraph shall stand repealed on January 1, 2011;

1181 ~~(59)(A) For purposes of this paragraph, 'eligible food and beverages' means any food~~
 1182 ~~as defined in Section 3 of the federal Food Stamp Act of 1977 (P.L. 95-113), as~~
 1183 ~~amended, 7 U.S.C.A. 2012(g), as such Act existed on January 1, 1996, whether or not~~
 1184 ~~for off-premises consumption.~~

1185 ~~(B)(A)~~ Sales of ~~eligible food and beverages~~ food and food ingredients to and by
 1186 member councils of the Girl Scouts of the U.S.A. in connection with fundraising
 1187 activities of any such council.

1188 ~~(C)(B)~~ Sales of ~~eligible food and beverages~~ food and food ingredients to and by
 1189 member councils of the Boy Scouts of America in connection with fundraising
 1190 activities of any such council;

1191 (60) The sale of machinery and equipment which is incorporated into any
 1192 telecommunications manufacturing facility and used for the primary purpose of
 1193 improving air quality in advanced technology clean rooms of Class 100,000 or less,
 1194 provided such clean rooms are used directly in the manufacture of tangible personal
 1195 property;

- 1196 (61) Printed advertising inserts or advertising supplements distributed in this state in or
 1197 as part of any newspaper for resale;
- 1198 (62) The sale of grass sod of all kinds and character when such sod is in the original state
 1199 of production or condition of preparation for sale. The exemption provided for by this
 1200 paragraph shall only apply to a sale made by the sod producer, a member of such
 1201 producer's family, or an employee of such producer. The exemption provided for by this
 1202 paragraph shall not apply to sales of grass sod by a person engaged in the business of
 1203 selling plants, seedlings, nursery stock, or floral products;
- 1204 (63) The sale or use of funeral merchandise, outer burial containers, and cemetery
 1205 markers as defined in Code Section 43-18-1, which are purchased with funds received
 1206 from the Georgia Crime Victims Emergency Fund under Chapter 15 of Title 17;
- 1207 (64) The sale of electricity or other fuel for the operation of an irrigation system which
 1208 is used on a farm exclusively for the irrigation of crops;
- 1209 (65)(A) Sales of dyed diesel fuel exclusively used to operate vessels or boats in the
 1210 commercial fishing trade by licensed commercial fishermen.
- 1211 (B) Any person making a sale of dyed diesel fuel for the purposes specified in this
 1212 paragraph shall collect the tax imposed on the sale by this article unless the purchaser
 1213 furnishes such person with a certificate issued by the commissioner certifying that the
 1214 purchaser is entitled to purchase the dyed diesel fuel without paying the tax;
- 1215 (66) Sales of gold, silver, or platinum bullion or any combination of such bullion,
 1216 provided that the dealer maintains proper documentation, as specified by rule or
 1217 regulation to be promulgated by the department, to identify each sale or portion of a sale
 1218 which is exempt under this paragraph;
- 1219 (67) Sales of coins or currency or a combination of coins and currency, provided that the
 1220 dealer maintains proper documentation, as specified by rule or regulation to be
 1221 promulgated by the department, to identify each sale or portion of a sale which is exempt
 1222 under this paragraph;
- 1223 (68)(A) The sale or lease of computer equipment to be incorporated into a facility or
 1224 facilities in this state to any high-technology company classified under North American
 1225 Industrial Classification System code 51121, 51331, 51333, 51334, 51421, 52232,
 1226 54133, 54171, 54172, 334413, 334611, 513321, 513322, 514191, 541511, 541512,
 1227 541513, or 541519 where such sale of computer equipment for any calendar year
 1228 exceeds \$15 million or, in the event of a lease of such computer equipment, the fair
 1229 market value of such leased computer equipment for any calendar year exceeds \$15
 1230 million.
- 1231 (B) Any person making a sale or lease of computer equipment to a high-technology
 1232 company as specified in subparagraph (A) of this paragraph shall collect the tax

1233 imposed on the sale by this article unless the purchaser furnishes such seller with a
 1234 certificate issued by the commissioner certifying that the purchaser is entitled to
 1235 purchase the computer equipment without paying the tax. As a condition precedent to
 1236 the issuance of the certificate, the commissioner, at such commissioner's discretion,
 1237 may require a good and valid bond with a surety company authorized to do business in
 1238 this state as surety or may require legal securities, in an amount fixed by the
 1239 commissioner, conditioned upon payment by the purchaser of all taxes due under this
 1240 article in the event it should be determined that the sale fails to meet the requirements
 1241 of this subparagraph.

1242 (C)(i) As used in this paragraph, the term 'computer equipment' means any individual
 1243 computer or organized assembly of hardware or software, such as a server farm,
 1244 mainframe or midrange computer, mainframe driven high-speed print and mailing
 1245 devices, and workstations connected to those devices via high bandwidth connectivity
 1246 such as a local area network, wide area network, or any other data transport
 1247 technology which performs one of the following functions: storage or management
 1248 of production data, hosting of production applications, hosting of application systems
 1249 development activities, or hosting of applications systems testing.

1250 (ii) The term shall not include:

- 1251 (I) Telephone central office equipment or other voice data transport technology; or
- 1252 (II) Equipment with imbedded computer hardware or software which is primarily
 1253 used for training, product testing, or in a manufacturing process.

1254 (D) Any corporation, partnership, limited liability company, or any other similar entity
 1255 which qualifies for the exemption and is affiliated in any manner with a nonqualified
 1256 corporation, partnership, limited liability company, or any other similar entity must
 1257 conduct at least a majority of its business with entities with which it has no affiliation;

1258 (69) The sale of machinery, equipment, and materials incorporated into and used in the
 1259 construction or operation of a clean room of Class 100 or less in this state, not to include
 1260 the building or any permanent, nonremovable component of the building that houses such
 1261 clean room, provided that such clean room is used directly in the manufacture of tangible
 1262 personal property in this state;

1263 ~~(70)(A) For the purposes of this paragraph, the term 'local sales and use tax' shall mean~~
 1264 ~~any sales tax, use tax, or local sales and use tax which is levied and imposed in an area~~
 1265 ~~consisting of less than the entire state, however authorized, including, but not limited~~
 1266 ~~to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant~~
 1267 ~~to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended,~~
 1268 ~~the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or pursuant to~~

1269 ~~Article 2 of this chapter, by or pursuant to Article 2A of this chapter, by or pursuant to~~
 1270 ~~Part 1 of Article 3 of this chapter, or by or pursuant to Part 2 of Article 3 of this chapter.~~
 1271 ~~(B)~~ The sale of natural or artificial gas used directly in the production of electricity
 1272 which is subsequently sold.
 1273 ~~(C) The exemption provided for in subparagraph (B) of this paragraph shall not apply~~
 1274 ~~to any local sales and use tax levied or imposed at any time.~~
 1275 ~~(D)~~(B) The commissioner shall adopt rules and regulations to carry out the provisions
 1276 of this paragraph;
 1277 (70.1)(A) For the period commencing July 1, 2008, and concluding on December 31,
 1278 2010, the sale of natural or artificial gas, No. 2 fuel oil, No. 6 fuel oil, propane,
 1279 petroleum coke, and coal used directly or indirectly in the manufacture or processing,
 1280 in a manufacturing plant located in this state, of tangible personal property primarily
 1281 for resale, and the fuel cost recovery component of retail electric rates used directly or
 1282 indirectly in the manufacture or processing, in a manufacturing plant located in this
 1283 state, of tangible personal property primarily for resale.
 1284 (B) The exemption provided for in subparagraph (A) of this paragraph shall not apply
 1285 to the first \$7.60 per decatherm of the sales price or cost price of natural or artificial
 1286 gas, the first \$2.48 per gallon of the sales price or cost price of No. 2 fuel oil, the first
 1287 \$1.72 per gallon of the sales price or cost price of No. 6 fuel oil, the first \$1.44 per
 1288 gallon of the sales price or cost price of propane, the first \$57.90 per ton of petroleum
 1289 coke, the first \$57.90 per ton of coal, or the first 3.44¢ per kilowatt hour of the fuel cost
 1290 recovery component of retail electricity rates whether such fuel recovery charges are
 1291 charged separately or are embedded in such electric rates. Dealers with such embedded
 1292 rates may exempt from the electricity sales upon which the sales tax is calculated no
 1293 more than the amount, if any, by which the fuel cost recovery charge approved by the
 1294 Georgia Public Service Commission for transmission customers of electric utilities
 1295 regulated by the Georgia Public Service Commission exceeds 3.44¢ per kilowatt hour.
 1296 (C)(i) For the purposes of this paragraph, the term 'local sales and use tax' shall mean
 1297 any sales tax, use tax, or local sales and use tax which is levied and imposed in an
 1298 area consisting of less than the entire state, however authorized, including, but not
 1299 limited to, such taxes authorized by or pursuant to constitutional amendment; by or
 1300 pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as
 1301 amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; or by or
 1302 pursuant to Article 2, 2A, 3, or 4 of this chapter.
 1303 (ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply
 1304 to any local sales and use tax levied or imposed at any time.

1305 (D) Any person making a sale of items qualifying for exemption under
 1306 subparagraph (A) of this paragraph shall be relieved of the burden of proving such
 1307 qualification if the person receives in good faith a certificate from the purchaser
 1308 certifying that the purchase is exempt under this paragraph.

1309 (E) Any person who qualifies for this exemption shall notify and certify to the person
 1310 making the qualified sale that this exemption is applicable to the sale;

1311 (71) Sales to or by any nonprofit organization which has as its primary purpose the
 1312 raising of funds for books, materials, and programs for public libraries if such
 1313 organization qualifies as a tax-exempt organization under Section 501(c)(3) of the
 1314 Internal Revenue Code;

1315 (72) ~~The sale or use, to or by permanently disabled persons, of wheelchairs and any~~
 1316 ~~accompanying equipment, including seating equipment, all of which is manually or~~
 1317 ~~mechanically attached or adapted to such wheelchairs~~ of all mobility enhancing
 1318 equipment prescribed by a physician;

1319 (73)(A) The sale or lease of production equipment or production services for use in this
 1320 state by a certified film producer or certified film production company for qualified
 1321 production activities.

1322 (B) As used in this paragraph, the term:

1323 (i) 'Film producer' means any person engaged in the business of organizing and
 1324 supervising qualified production activities.

1325 (ii) 'Film production company' means any company that employs one or more film
 1326 producers and whose goal is to engage in film production activity.

1327 (iii) 'Production equipment' means items purchased or leased for use exclusively in
 1328 qualified production activities in Georgia, including, but not limited to, cameras,
 1329 camera supplies, camera accessories, lighting equipment, cables, wires, generators,
 1330 motion picture film and videotape stock, cranes, booms, dollies, and teleprompters.

1331 (iv) 'Production services' means services purchased for use exclusively in qualified
 1332 production activities in Georgia, including, but not limited to, digital or tape editing,
 1333 film processing, transfers of film to tape or digital format, sound mixing, computer
 1334 graphics services, special effects services, animation services, and script production.

1335 (v) 'Qualified production activities' means the production or post production of film
 1336 or video projects such as feature films, series, pilots, movies for television,
 1337 commercials, music videos, or sound recordings used in feature films, series, pilots,
 1338 or movies for television, for which the film producer or film production company will
 1339 be compensated and which are intended for nation-wide commercial distribution.

1340 (C) Any person making a sale of production equipment or production services to a film
 1341 producer or film production company as specified in this paragraph shall collect the tax

1342 imposed on the sale by this article unless the purchaser furnishes such seller with a
 1343 certificate issued by the commissioner certifying that the purchaser is entitled to
 1344 purchase the production equipment or production services without paying the tax. As
 1345 a condition precedent to the issuance of the certificate, film producers and film
 1346 production companies shall submit an application to the commissioner for designation
 1347 as a certified film producer or certified film production company. Such application
 1348 shall not be valid without prior written approval by the Georgia Film and Videotape
 1349 Office of the Department of Economic Development;

1350 (74)(A)(i) Except as otherwise provided in divisions (ii) and (iii) of this
 1351 subparagraph, the sale or use of digital broadcast equipment sold to, leased to, or used
 1352 by a federally licensed commercial or public radio or television broadcast station, a
 1353 cable network, or a cable distributor that enables a radio or television station, cable
 1354 network, or cable distributor to originate and broadcast or transmit or to receive and
 1355 broadcast or transmit digital signals, including, but not limited to, digital broadcast
 1356 equipment required by the Federal Communications Commission.

1357 (ii) For commercial or public television broadcasters and cable distributors, such
 1358 equipment shall be limited to antennas, transmission lines, towers, digital transmitters,
 1359 studio to transmitter links, digital routing switchers, character generators, Advanced
 1360 Television Systems Committee video encoders and multiplexers, monitoring facilities,
 1361 cameras, terminal equipment, tape recorders, and file servers.

1362 (iii) For radio broadcasters, such equipment shall be limited to transmitters, digital
 1363 audio processors, and diskettes.

1364 (B) As used in this paragraph, the term:

1365 (i) 'Digital broadcast equipment' means equipment purchased, leased, or used for the
 1366 origination or integration of program materials for broadcast over the airwaves or
 1367 transmission by cable, satellite, or fiber optic line which uses or produces an
 1368 electronic signal where the signal carries data generated, stored, and processed as
 1369 strings of binary data. Data transmitted or stored as digital data consists of strings of
 1370 positive or nonpositive elements of a transmission expressed in strings of 0's and 1's
 1371 which a computer or processor can reconstruct as an electronic signal.

1372 (ii) 'Federally licensed commercial or public radio or television broadcast station'
 1373 means any entity or enterprise, either commercial or noncommercial, which operates
 1374 under a license granted by the Federal Communications Commission for the purpose
 1375 of free distribution of audio and video services when the distribution occurs by means
 1376 of transmission over the public airwaves.

1377 (C) The exemption provided under this paragraph shall not apply to any of the
 1378 following:

- 1379 (i) Repair or replacement parts purchased for the equipment described in this
 1380 paragraph;
- 1381 (ii) Equipment purchased to replace equipment for which an exemption was
 1382 previously claimed and taken under this paragraph;
- 1383 (iii) Any equipment purchased after a television station, cable network, or cable
 1384 distributor has ceased analog broadcasting, or purchased after November 1, 2004,
 1385 whichever occurs first; or
- 1386 (iv) Any equipment purchased after a radio station has ceased analog broadcasting,
 1387 or purchased after November 1, 2008, whichever occurs first.
- 1388 (D) Any person making a sale of digital broadcasting equipment to a federally licensed
 1389 commercial or public radio or television broadcast station, cable network, or cable
 1390 distributor shall collect the tax imposed on the sale by this article unless the purchaser
 1391 furnishes a certificate issued by the commissioner certifying that the purchaser is
 1392 entitled to purchase the equipment without paying the tax;
- 1393 (75)(A) The sale of any covered item. The exemption provided by this paragraph shall
 1394 apply only to sales occurring during a period commencing at 12:01 A.M. on July 30,
 1395 2009, and concluding at 12:00 Midnight on August 2, 2009.
- 1396 (B) As used in this paragraph, the term 'covered item' shall mean:
- 1397 (i) Articles of clothing and footwear with a sales price of \$100.00 or less per article
 1398 of clothing or pair of footwear, excluding accessories such as jewelry, handbags,
 1399 umbrellas, eyewear, watches, and watchbands;
- 1400 (ii) A single purchase, with a sales price \$1,500.00 or less, of personal computers and
 1401 personal computer related accessories purchased for noncommercial home or personal
 1402 use, including personal computer base units and keyboards, personal digital assistants,
 1403 handheld computers, monitors, other peripheral devices, modems for Internet and
 1404 network access, and nonrecreational software, whether or not they are to be utilized
 1405 in association with the personal computer base unit. Computer and computer related
 1406 accessories shall not include furniture and any systems, devices, software, or
 1407 peripherals designed or intended primarily for recreational use; and
- 1408 (iii) Noncommercial purchases of general school supplies to be utilized in the
 1409 classroom or in classroom related activities, such as homework, up to a sales price of
 1410 \$20.00 per item including pens, pencils, notebooks, paper, book bags, calculators,
 1411 dictionaries, thesauruses, and children's books and books listed on approved school
 1412 reading lists for pre-kindergarten through twelfth grade.
- 1413 (C) The exemption provided by this paragraph shall not apply to rentals, sales in a
 1414 theme park, entertainment complex, public lodging establishment, restaurant, or airport
 1415 or to purchases for trade, business, or resale.

1416 (D) The commissioner shall promulgate any rules and regulations necessary to
1417 implement and administer this paragraph including but not be limited to a list of those
1418 articles and items qualifying for the exemption pursuant to this paragraph;

1419 (76) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from June
1420 4, 2003, until January 1, 2007, sales of tangible personal property to, or used in the
1421 construction of, an aquarium owned or operated by an organization which is exempt from
1422 taxation under Section 501(c)(3) of the Internal Revenue Code;

1423 (77) Sales of liquefied petroleum gas or other fuel used in a structure in which plants,
1424 seedlings, nursery stock, or floral products are raised primarily for the purposes of
1425 making sales of such plants, seedlings, nursery stock, or floral products for resale;

1426 (78)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from
1427 the effective date of this paragraph until September 1, 2011, sales of tangible personal
1428 property used in direct connection with the construction of a new symphony hall facility
1429 owned or operated by an organization which is exempt from taxation under Section
1430 501(c)(3) of the Internal Revenue Code if the aggregate construction cost of such
1431 facility is \$200 million or more.

1432 (B) Any person making a sale of tangible personal property for the purpose specified
1433 in this paragraph shall collect the tax imposed on this sale unless the purchaser
1434 furnishes such person with an exemption determination letter issued by the
1435 commissioner certifying that the purchaser is entitled to purchase the tangible personal
1436 property without paying the tax;

1437 (79) The sale or use of ice for chilling poultry or vegetables in processing for market and
1438 for chilling poultry or vegetables in storage rooms, compartments, or delivery trucks;

1439 (80)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from
1440 the effective date of this paragraph until December 31, 2007, sales of tangible personal
1441 property to, or used in or for the new construction of an eligible corporate attraction.

1442 (B) As used in this paragraph, the term: 'corporate attraction' means any tourist
1443 attraction facility constructed on or after the effective date of this paragraph dedicated
1444 to the history and products of a corporation which costs exceeds \$50 million, is greater
1445 than 60,000 square feet of space, and has associated facilities, including but not limited
1446 to parking decks and landscaping owned by the same owner as the eligible corporate
1447 attraction.

1448 (C) Any person making a sale of tangible personal property for the purpose specified
1449 in this paragraph shall collect the tax imposed on this sale unless the purchaser
1450 furnishes such person with an exemption determination letter issued by the
1451 commissioner certifying that the purchaser is entitled to purchase the tangible personal
1452 property without paying the tax;

1453 (81) The sale of food and ~~beverages, except for alcoholic beverages,~~ food ingredients to
1454 a qualifying airline for service to passengers and crew in the aircraft, whether in flight or
1455 on the ground, and the furnishing without charge of food and ~~beverages~~ food ingredients
1456 to qualifying airline passengers and crew in the aircraft, whether in flight or on the
1457 ground; and for purposes of this paragraph a 'qualifying airline' shall mean any person
1458 which is authorized by the Federal Aviation Administration or appropriate agency of the
1459 United States to operate as an air carrier under an air carrier operating certificate and
1460 which provides regularly scheduled flights for the transportation of passengers or cargo
1461 for hire. As used in this paragraph, 'food and food ingredients' means substances,
1462 whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for
1463 ingestion or chewing by humans and are consumed for their taste or nutritional value.
1464 'Food and food ingredients' shall not include alcoholic beverages or tobacco;

1465 (82)(A) Purchase of energy efficient products or water efficient products with a sales
1466 price of \$1,500.00 or less per product purchased for noncommercial home or personal
1467 use. The exemption provided by this paragraph shall apply only to sales occurring
1468 during a period commencing at 12:01 A.M. on October 1, 2009, and concluding at
1469 12:00 Midnight on October 4, 2009.

1470 (B) As used in this paragraph, the term:

1471 (i) 'Energy efficient product' means any energy efficient product for noncommercial
1472 home or personal use consisting of any dishwasher, clothes washer, air conditioner,
1473 ceiling fan, fluorescent light bulb, dehumidifier, programmable thermostat,
1474 refrigerator, door, or window which has been designated by the United States
1475 Environmental Protection Agency and the United States Department of Energy as
1476 meeting or exceeding each such agency's energy saving efficiency requirements or
1477 which have been designated as meeting or exceeding such requirements under each
1478 such agency's Energy Star program.

1479 (ii) 'Water efficient product' means any product used for the conservation or efficient
1480 use of water which has been designated by the United States Environmental
1481 Protection Agency as meeting or exceeding such agency's water saving efficiency
1482 requirements or which has been designated as meeting or exceeding such
1483 requirements under such agency's Water Sense program.

1484 (C) The exemption provided for in subparagraph (A) of this paragraph shall not apply
1485 to purchases of energy efficient products or water efficient products purchased for
1486 trade, business, or resale.

1487 (D) The commissioner shall promulgate any rules and regulations necessary to
1488 implement and administer this paragraph;

1489 (83)(A) The sale or use of biomass material, including pellets or other fuels derived
1490 from compressed, chipped, or shredded biomass material, utilized in the production of
1491 energy, including without limitation the production of electricity, steam, or the
1492 production of electricity and steam, which is subsequently sold.

1493 (B) As used in this paragraph, the term 'biomass material' means organic matter,
1494 excluding fossil fuels, including agricultural crops, plants, trees, wood, wood wastes
1495 and residues, sawmill waste, sawdust, wood chips, bark chips, and forest thinning,
1496 harvesting, or clearing residues; wood waste from pallets or other wood demolition
1497 debris; peanut shells; pecan shells; cotton plants; corn stalks; and plant matter,
1498 including aquatic plants, grasses, stalks, vegetation, and residues, including hulls,
1499 shells, or cellulose containing fibers;

1500 (84)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from
1501 July 1, 2006, until June 30, 2008, sales of tangible personal property used in direct
1502 connection with the construction of a national infantry museum and heritage park
1503 facility.

1504 (B) As used in this paragraph, the term 'national infantry museum and heritage park
1505 facility' means a museum and park facility which is constructed after July 1, 2006; is
1506 dedicated to the history of the American foot soldier; has more than 130,000 square feet
1507 of space; and has associated facilities, including, but not limited to, parking, parade
1508 grounds, and memorial areas.

1509 (C) Any person making a sale of tangible personal property for the purpose specified
1510 in this paragraph shall collect the tax imposed on this sale unless the purchaser
1511 furnishes such person with an exemption determination letter issued by the
1512 commissioner certifying that the purchaser is entitled to purchase the tangible personal
1513 property without paying the tax;

1514 (85)(A) Sales of tangible personal property and services to a qualified job training
1515 organization when such organization obtains an exemption determination letter from
1516 the commissioner.

1517 (B) For purposes of this paragraph, 'qualified job training organization' means an
1518 organization which:

- 1519 (i) Is located in this state;
- 1520 (ii) Is exempt from income taxation under Section 501 (c)(3) of the Internal Revenue
1521 Code;
- 1522 (iii) Specializes in the retail sale of donated items;
- 1523 (iv) Provides job training and employment services to individuals with workplace
1524 disadvantages and disabilities; and
- 1525 (v) Uses a majority of its revenues for job training and placement programs.

1526 (C)(i) For the purposes of this paragraph, the term 'local sales and use tax' shall mean
 1527 any sales tax, use tax, or local sales and use tax which is levied and imposed in an
 1528 area consisting of less than the entire state, however authorized, including, but not
 1529 limited to, such taxes authorized by or pursuant to constitutional amendment; by or
 1530 pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as
 1531 amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or
 1532 pursuant to Article 2 of this chapter; by or pursuant to Article 2A of this chapter; by
 1533 or pursuant to Part 1 of Article 3 of this chapter; by or pursuant to Part 2 of Article 3
 1534 of this chapter; or by or pursuant to Article 4 of this chapter.

1535 (ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply
 1536 to any local sales and use tax levied or imposed at any time.

1537 (D) The commissioner shall promulgate any rules and regulations necessary to
 1538 implement and administer this paragraph.

1539 (E) This paragraph shall stand repealed in its entirety on July 1, 2010;

1540 (86) For the period commencing on July 1, 2007, and ending on June 30, 2011, the sale
 1541 or use of engines, parts, equipment, and other tangible personal property used in the
 1542 maintenance or repair of aircraft when such engines, parts, equipment, and other tangible
 1543 personal property are installed on such aircraft that is being repaired or maintained in this
 1544 state so long as such aircraft is not registered in this state;

1545 (87)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from
 1546 July 1, 2009, until June 30, 2011, sales of tangible personal property used for and in the
 1547 renovation or expansion of a zoological institution.

1548 (B) As used in this ~~Code section~~ paragraph, the term 'zoological institution' means a
 1549 nonprofit wildlife park, terrestrial institution, or facility which is:

1550 (i) Open to the public, that exhibits and cares for a collection consisting primarily of
 1551 animals other than fish, and has received accreditation from the Association of Zoos
 1552 and Aquariums; and

1553 (ii) Located in this state and owned or operated by an organization which is exempt
 1554 from taxation under Section 501(c)(3) of the Internal Revenue Code.

1555 (C) Any person making a sale of tangible personal property for the purpose specified
 1556 in this paragraph shall collect the tax imposed on this sale unless the purchaser
 1557 furnishes such person with an exemption determination letter issued by the
 1558 commissioner certifying that the purchaser is entitled to purchase the tangible personal
 1559 property without paying the tax;

1560 (88)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from
 1561 July 1, 2009, until July 30, 2015, sales of tangible personal property to, or used in or for
 1562 the new construction of, a civil rights museum.

1563 (B) As used in this paragraph, the term 'civil rights museum' means a museum which
 1564 is constructed after July 1, 2009; is owned or operated by an organization which is
 1565 exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; has more
 1566 than 70,000 square feet of space; and has associated facilities, including, but not limited
 1567 to, special event space and retail space.

1568 (C) Any person making a sale of tangible personal property for the purpose specified
 1569 in this paragraph shall collect the tax imposed on this sale unless the purchaser
 1570 furnishes such person with an exemption determination letter issued by the
 1571 commissioner certifying that the purchaser is entitled to purchase the tangible personal
 1572 property without paying the tax.

1573 (D) The exemption provided for under subparagraph (A) of this paragraph shall not
 1574 apply to sales of tangible personal property that occur after the museum is opened to
 1575 the public; or

1576 (89) For the period commencing on July 1, 2009, and ending on June 30, 2011, the sale
 1577 or use of an airplane flight simulation training device approved by the Federal Aviation
 1578 Administration under Appendices A and B, 14 C.F.R. Part 60."

1579 **SECTION 3.**

1580 Said title is further amended by revising Code Section 48-8-6, relating to limitations on local
 1581 sales and use taxes, as follows:

1582 "48-8-6.

1583 (a) ~~Except as otherwise authorized by the General Assembly, no county, municipality,~~
 1584 ~~school district, or other political subdivision of this state shall impose, levy, or collect a~~
 1585 ~~gross receipts tax, sales tax, use tax, or tax on amusement admission or services included~~
 1586 ~~in this article.~~

1587 (b) There shall not be imposed in any jurisdiction in this state or on any transaction in this
 1588 state local sales taxes, local use taxes, or local sales and use taxes in excess of 2 percent.
 1589 For purposes of this prohibition, the taxes affected are any sales tax, use tax, or sales and
 1590 use tax which is levied in an area consisting of less than the entire state, however
 1591 authorized, including such taxes authorized by or pursuant to constitutional amendment,
 1592 except that the following taxes shall not count toward or be subject to such 2 percent
 1593 limitation:

1594 (1) A sales and use tax for educational purposes exempted from such limitation under
 1595 Article VIII, Section VI, Paragraph IV of the Constitution;

1596 (2) Any tax levied for purposes of a metropolitan area system of public transportation,
 1597 as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page
 1598 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d)

1599 of the Constitution; and the laws enacted pursuant to such constitutional amendment;
 1600 provided, however, that the exception provided for under this paragraph shall only apply
 1601 in a county in which a tax is being imposed under subparagraph (a)(1)(D) of Code
 1602 Section 48-8-111 in whole or in part for the purpose or purposes of a water capital outlay
 1603 project or projects, a sewer capital outlay project or projects, a water and sewer capital
 1604 outlay project or projects, water and sewer projects and costs as defined under paragraph
 1605 (3) of Code Section 48-8-200, or any combination thereof and with respect to which the
 1606 county has entered into an intergovernmental contract with a municipality, in which the
 1607 average waste-water system flow of such municipality is not less than 85 million gallons
 1608 per day, allocating proceeds to such municipality to be used solely for water and sewer
 1609 projects and costs as defined under paragraph (3) of Code Section 48-8-200. The
 1610 exception provided for under this paragraph shall apply only during the period the tax
 1611 under said subparagraph (a)(1)(D) is in effect. The exception provided for under this
 1612 paragraph shall not apply in any county in which a tax is being imposed under Article 2A
 1613 of this chapter;

1614 (3) In the event of a rate increase imposed pursuant to Code Section 48-8-96, only the
 1615 amount in excess of the initial 1 percent sales and use tax and in the event of a newly
 1616 imposed tax pursuant to Code Section 48-8-96, only the amount in excess of a 1 percent
 1617 sales and use tax; and

1618 (4) A sales and use tax levied under Article 4 of this chapter.

1619 If the imposition of any otherwise authorized local sales tax, local use tax, or local sales
 1620 and use tax would result in a tax rate in excess of that authorized by this subsection, then
 1621 such otherwise authorized tax may not be imposed.

1622 ~~(c)~~(b) Where the exception specified in paragraph (2) of subsection ~~(b)~~ (a) of this Code
 1623 section applies, the tax imposed under subparagraph (a)(1)(D) of Code Section 48-8-111
 1624 shall not apply to:

1625 (1) Reserved; and

1626 (2) The sale of motor vehicles.

1627 ~~(c)~~(c) Where the exception specified in paragraph (2) of subsection (b) of this Code
 1628 section applies, on and after July 1, 2007, the aggregate amount of all excise taxes imposed
 1629 under paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and use taxes
 1630 shall not exceed 14 percent.

1631 (d) Notwithstanding any law or ordinance to the contrary, any tax, charge, or fee levied
 1632 by any political subdivision of this state and applicable to mobile telecommunications
 1633 services, as defined in Section 124(7) of the federal Mobile Telecommunications Sourcing
 1634 Act, 4 U.S.C. Section 124(7), shall apply only if the customer's place of primary use is
 1635 located within the boundaries of the political subdivision levying such local tax, charge,

1636 or fee. For purposes of this subsection, the provisions of Code Section 48-8-13 shall apply
 1637 in the same manner and to the same extent as such provisions apply to the tax levied by
 1638 Code Section 48-8-1 on mobile telecommunications services. This subsection shall not be
 1639 construed to authorize the imposition of any tax, charge, or fee."

1640 SECTION 4.

1641 Said title is further amended by revising Code Section 48-8-30, relating to imposition, rates,
 1642 and collection of sales and use tax, as follows:

1643 "48-8-30.

1644 (a) There is levied and imposed a tax on the retail purchase, retail sale, rental, storage, use,
 1645 or consumption of tangible personal property and on the services described in this article.

1646 (b)(1) Every purchaser of tangible personal property at retail in this state shall be liable
 1647 for a tax on the purchase at the rate of 4 percent of the sales price of the purchase. The
 1648 tax shall be paid by the purchaser to the retailer making the sale, as provided in this
 1649 article. The retailer shall remit the tax to the commissioner as provided in this article and,
 1650 when received by the commissioner, the tax shall be a credit against the tax imposed on
 1651 the retailer. Every person making a sale or sales of tangible personal property at retail
 1652 in this state shall be a retailer and a dealer and shall be liable for a tax on the sale at the
 1653 rate of 4 percent of the ~~gross sale or gross sales~~ price, or the amount of taxes collected by
 1654 him from his purchaser or purchasers, whichever is greater.

1655 (2) No retail sale shall be taxable to the retailer or dealer which is not taxable to the
 1656 purchaser at retail.

1657 (c)(1) Upon the first instance of use, consumption, distribution, or storage within this
 1658 state of tangible personal property purchased at retail outside this state, the owner or user
 1659 of the property shall be a dealer and shall be liable for a tax at the rate of 4 percent of the
 1660 ~~cost~~ purchase price, except as provided in paragraph (2) of this subsection.

1661 (2) Upon the first instance of use, consumption, distribution, or storage within this state
 1662 of tangible personal property purchased at retail outside this state and used outside this
 1663 state for more than six months prior to its first use within this state, the owner or user of
 1664 the property shall be a dealer and shall be liable for a tax at the rate of 4 percent of the
 1665 ~~cost~~ purchase price or fair market value of the property, whichever is the lesser.

1666 (3) This subsection shall not be construed to require a duplication in the payment of the
 1667 tax. The tax imposed by this subsection shall be subject to the credit otherwise granted
 1668 by this article for like taxes previously paid in another state.

1669 (c.1)(1) Every purchaser of tangible personal property at retail outside this state from a
 1670 dealer, as defined in subparagraph (H) of paragraph (3) of Code Section 48-8-2, when
 1671 such property is to be used, consumed, distributed, or stored within this state, shall be

1672 liable for a tax on the purchase at the rate of 4 percent of the sales price of the purchase.
1673 It shall be prima-facie evidence that such property is to be used, consumed, distributed,
1674 or stored within this state if that property is delivered in this state to the purchaser or
1675 agent thereof. The tax shall be paid by the purchaser to the retailer making the sale, as
1676 provided in this article. The retailer shall remit the tax to the commissioner as provided
1677 in this article and, when received by the commissioner, the tax shall be a credit against
1678 the tax imposed on the retailer. Every person who is a dealer, as defined in subparagraph
1679 (H) of paragraph (3) of Code Section 48-8-2 and who makes any sale of tangible personal
1680 property at retail outside this state which property is to be delivered in this state to a
1681 purchaser or purchaser's agent shall be a retailer and a dealer for purposes of this article
1682 and shall be liable for a tax on the sale at the rate of 4 percent of such ~~gross sales~~ price
1683 or the amount of tax as collected by that person from purchasers having their purchases
1684 delivered in this state, whichever is greater.

1685 (2) No retail sale shall be taxable to the retailer or dealer which is not taxable to the
1686 purchaser at retail. The tax imposed by this subsection shall be subject to the credit
1687 otherwise granted by this article for like taxes previously paid in another state. This
1688 subsection shall not be construed to require a duplication in the payment of the tax.

1689 (d)(1) Every person to whom tangible personal property in the state is leased or rented
1690 shall be liable for a tax on the lease or rental at the rate of 4 percent of the ~~gross lease or~~
1691 ~~rental charge~~ sales price. The tax shall be paid to the person who leases or rents the
1692 property by the person to whom the property is leased or rented. A person who leases or
1693 rents property to others as a dealer under this article shall remit the tax to the
1694 commissioner as provided in this article. When received by the commissioner, the tax
1695 shall be a credit against the tax imposed on the person who leases or rents the property
1696 to others. Every person who leases or rents tangible personal property in this state to
1697 others shall be a dealer and shall be liable for a tax on the lease or rental at the rate of 4
1698 percent of the ~~gross lease or rental proceeds~~ sales price, or the amount of taxes collected
1699 by him from persons to whom he leases or rents tangible personal property, whichever
1700 is greater.

1701 (2) No lease or rental shall be taxable to the person who leases or rents tangible property
1702 to another which is not taxable to the person to whom the property is leased or rented.

1703 (3) The lessee of both taxable and exempt property in this state under a single lease
1704 agreement containing a lease period of ten years or more shall have the option to
1705 discharge in full all sales and use taxes imposed by this article relating to the tangible
1706 personal property by paying in a lump sum 4 percent of the fair market value of the
1707 tangible personal property at the date of inception of the lease agreement in the same

1708 manner and under the same conditions applicable to sales of the tangible personal
1709 property.

1710 (e) Upon the first instance of use within this state of tangible personal property leased or
1711 rented outside this state, the person to whom the property is leased or rented shall be a
1712 dealer and shall be liable for a tax at the rate of 4 percent of the ~~rental charge~~ sales price
1713 paid to the person who leased or rented the property, subject to the credit authorized for
1714 like taxes previously paid in another state.

1715 (e.1)(1) Every person who leases, as lessor, or rents tangible personal property outside
1716 this state for use within this state shall be liable for a tax at the rate of 4 percent of the
1717 ~~rental charge~~ sales price paid for that lease or rental if that person is a dealer, as defined
1718 in subparagraph (H) of paragraph (3) of Code Section 48-8-2 and title to that property
1719 remains in that person. It shall be prima-facie evidence that such property is to be used
1720 within this state if that property is delivered in this state to the lessee or renter of such
1721 property, or to the agent of either. The tax shall be paid by the lessee or renter and
1722 payment of the tax shall be made to the lessor or person receiving rental payments for that
1723 property, which person shall be the dealer for purposes of this article. The dealer shall
1724 remit the tax to the commissioner as provided in this article and, when received by the
1725 commissioner, the tax shall be a credit against the tax imposed on the dealer. Every
1726 person who is a dealer, as defined in subparagraph (H) of paragraph (3) of Code Section
1727 48-8-2 and who leases or rents tangible personal property outside this state to be
1728 delivered in this state to the lessee, renter, or agent of either shall be a dealer and shall be
1729 liable as such for a tax on the lease or rental at the rate of 4 percent of the ~~gross proceeds~~
1730 sales price from such leases or rentals or the amount of taxes collected by that dealer for
1731 leases or rentals of tangible personal property delivered in this state, whichever is greater.

1732 (2) No lease or rental shall be taxable to the dealer which is not taxable to the lessee or
1733 renter. The tax imposed by this subsection shall be subject to the credit granted by this
1734 article for like taxes previously paid in another state. This subsection shall not be
1735 construed to require a duplication in the payment of the tax.

1736 (f)(1) Every person purchasing or receiving any service within this state, the purchase
1737 of which is a retail sale, shall be liable for tax on the purchase at the rate of 4 percent of
1738 the ~~gross charge or charges~~ sales price made for the purchase. The tax shall be paid by
1739 the person purchasing or receiving the service to the person furnishing the service. The
1740 person furnishing the service, as a dealer under this article, shall remit the tax to the
1741 commissioner as provided in this article; and, when received by the commissioner, the
1742 tax shall be a credit against the tax imposed on the person furnishing the service. Every
1743 person furnishing a service, the purchase of which is a retail sale, shall be a dealer and
1744 shall be liable for a tax on the sale at the rate of 4 percent of the ~~gross charge or charges~~

1745 sales price made for furnishing the service, or the amount of taxes collected by him from
1746 the person to whom the service is furnished, whichever is greater.

1747 (2) No sale of services shall be taxable to the person furnishing the service which is not
1748 taxable to the purchaser of the service.

1749 (g) Whenever a purchaser of tangible personal property under subsection (b) or (c.1) of
1750 this Code section, a lessee or renter of the property under subsection (d) or (e.1) of this
1751 Code section, or a purchaser of taxable services under subsection (f) of this Code section
1752 does not pay the tax imposed upon him or her to the retailer, lessor, or dealer who is
1753 involved in the taxable transaction, the purchaser, lessee, or renter shall be a dealer himself
1754 or herself and the commissioner, whenever he or she has reason to believe that a purchaser
1755 or lessee has not so paid the tax, may assess and collect the tax directly against and from
1756 the purchaser, lessee, or renter, unless the purchaser, lessee, or renter shows that the
1757 retailer, lessor, or dealer who is involved in the transaction has nevertheless remitted to the
1758 commissioner the tax imposed on the transaction. If payment is received directly from the
1759 purchaser, it shall not be collected a second time from the retailer, lessor, or dealer who is
1760 involved.

1761 (h) The tax imposed by this Code section shall be collected from the dealer and paid at the
1762 time and in the manner provided in this article. Any person engaging or continuing in
1763 business as a retailer and wholesaler or jobber shall pay the tax imposed on the ~~gross~~
1764 ~~proceeds~~ sales price of retail sales of the business at the rate specified when proper books
1765 are kept showing separately the gross proceeds of sales for each business. If the records
1766 are not kept separately, the tax shall be paid as a retailer or dealer on the gross sales of the
1767 business. For the purpose of this Code section, all sales through any one vending machine
1768 shall be treated as a single sale. The gross proceeds for reporting vending sales shall be
1769 treated as if the tax is included in the sale and the taxable proceeds shall be net of the tax
1770 included in the sale.

1771 (i) The tax levied by this Code section is in addition to all other taxes, whether levied in
1772 the form of excise, license, or privilege taxes, and shall be in addition to all other fees and
1773 taxes levied.

1774 (j) In the event any distributor licensed under Chapter 9 of this title purchases any motor
1775 fuel on which the prepaid state tax or prepaid local tax or both have been imposed pursuant
1776 to this Code section and resells the same to a governmental entity that is totally or partially
1777 exempt from such tax under paragraph (1) of Code Section 48-8-3, such distributor shall
1778 be entitled to either a credit or refund. The amount of the credit or refund shall be the
1779 prepaid state tax or prepaid local tax or both rates for which such governmental entity is
1780 exempt multiplied by the gallons of motor fuel purchased for its exclusive use. To be
1781 eligible for the credit or refund, the distributor shall reduce the amount such distributor

1782 charges for the fuel sold to such governmental entity by an amount equal to the tax from
 1783 which such governmental entity is exempt. Should a distributor have a liability under this
 1784 Code section, the distributor may elect to take a credit for those sales against such liability.

1785 (k) The prepaid local tax shall be imposed at the time tax is imposed under subparagraph
 1786 (b)(2)(B) of Code Section 48-9-14.

1787 (1)(1) The retail sale, excluding lease or rental, of a product shall be sourced as follows:

1788 (A) When the product is received by the purchaser at a business location of the seller,
 1789 the sale is sourced to that business location;

1790 (B) When the product is not received by the purchaser at a business location of the
 1791 seller, the sale is sourced to the location where receipt by the purchaser, or the
 1792 purchaser's donee, designated as such by the purchaser, occurs, including the location
 1793 indicated by instructions for delivery to the purchaser or donee, known to the seller;

1794 (C) When subparagraph (A) or (B) of this paragraph does not apply, the sale is sourced
 1795 to the location indicated by an address for the purchaser that is available from the
 1796 business records of the seller that are maintained in the ordinary course of the seller's
 1797 business when use of this address does not constitute bad faith;

1798 (D) When subparagraph (A), (B), or (C) of this paragraph does not apply, the sale is
 1799 sourced to the location indicated by an address for the purchaser obtained during the
 1800 consummation of the sale, including the address of a purchaser's payment instrument,
 1801 if no other address is available, when use of this address does not constitute bad faith;

1802 (E) When subparagraph (A), (B), (C), or (D) of this paragraph does not apply,
 1803 including the circumstance in which the seller is without sufficient information to apply
 1804 the previous rules, then the location will be determined by the address from which
 1805 tangible personal property was shipped, from which the digital good or the computer
 1806 software delivered electronically was first available for transmission by the seller, or
 1807 from which the service was provided, disregarding for these purposes any location that
 1808 merely provided the digital transfer of the product sold.

1809 (2) The lease or rental of tangible personal property, other than property identified in
 1810 paragraph (3) or (4) of this subsection, shall be sourced as follows:

1811 (A) For a lease or rental that requires recurring periodic payments, the first periodic
 1812 payment is sourced the same as a retail sale in accordance with the provisions of
 1813 paragraph (1) of this subsection. Periodic payments made subsequent to the first
 1814 payment are sourced to the primary property location for each period covered by the
 1815 payment. The primary property location shall be as indicated by an address for the
 1816 property provided by the lessee that is available to the lessor from its records
 1817 maintained in the ordinary course of business, when use of this address does not
 1818 constitute bad faith. The property location shall not be altered by intermittent use at

1819 different locations, such as use of business property that accompanies employees on
1820 business trips and service calls.

1821 (B) For a lease or rental that does not require recurring periodic payments, the payment
1822 is sourced the same as a retail sale in accordance with the provisions of paragraph (1)
1823 of this subsection.

1824 (C) This subsection does not affect the imposition or computation of sales or use tax
1825 on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of
1826 property for lease.

1827 (3) The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not
1828 qualify as transportation equipment, as defined in paragraph (4) of this subsection, shall
1829 be sourced as follows:

1830 (A) For a lease or rental that requires recurring periodic payments, each periodic
1831 payment is sourced to the primary property location. The primary property location
1832 shall be as indicated by an address for the property provided by the lessee that is
1833 available to the lessor from its records maintained in the ordinary course of business,
1834 when use of this address does not constitute bad faith. This location shall not be altered
1835 by intermittent use at different locations.

1836 (B) For a lease or rental that does not require recurring periodic payments, the payment
1837 is sourced the same as a retail sale in accordance with the provisions of paragraph (1)
1838 of this subsection.

1839 (C) This subsection shall not affect the imposition or computation of sales or use tax
1840 on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of
1841 property for lease.

1842 (4) The retail sale, including lease or rental, of transportation equipment shall be sourced
1843 the same as a retail sale in accordance with the provisions of paragraph (1) of this
1844 subsection, notwithstanding the exclusion of lease or rental in paragraph (1) of this
1845 subsection. As used in this paragraph, 'transportation equipment' means any of the
1846 following:

1847 (A) Locomotives and railcars that are utilized for the carriage of persons or property
1848 in interstate commerce.

1849 (B) Trucks and truck-tractors with a Gross Vehicle Weight Rating of 10,001 pounds
1850 or greater, trailers, semitrailers, or passenger buses that are:

1851 (i) Registered through the International Registration Plan; and

1852 (ii) Operated under authority of a carrier authorized and certificated by the U.S.
1853 Department of Transportation or another federal authority to engage in the carriage
1854 of persons or property in interstate commerce.

1855 (C) Aircraft that are operated by air carriers authorized and certificated by the U.S.
 1856 Department of Transportation or another federal or a foreign authority to engage in the
 1857 carriage of persons or property in interstate or foreign commerce.

1858 (D) Containers designed for use on and component parts attached or secured on the
 1859 items set forth in subparagraphs (A) or (B) of this paragraph.

1860 (m) For the purposes of paragraph (1) of subsection (l) of this Code section, the terms
 1861 'receive' and 'receipt' mean:

1862 (1) Taking possession of tangible personal property;

1863 (2) Making first use of services; or

1864 (3) Taking possession or making first use of digital goods, whichever comes first.

1865 The terms 'receive' and 'receipt' shall not include possession by a shipping company on
 1866 behalf of the purchaser.

1867 (n)(1) Notwithstanding subsection (l) of this Code section, the following provisions shall
 1868 apply to sales of 'advertising and promotional direct mail':

1869 (A) A purchaser of 'advertising and promotional direct mail' may provide the seller
 1870 with either:

1871 (i) A direct pay permit;

1872 (ii) An agreement certificate of exemption claiming 'direct mail' or other written
 1873 statement approved, authorized, or accepted by the state; or

1874 (iii) Information showing the jurisdictions to which the 'advertising and promotional
 1875 direct mail' is to be delivered to recipients;

1876 (B) If the purchaser provides the permit, certificate, or statement referred to in
 1877 division (i) or (ii) of subparagraph (A) of this paragraph, the seller, in the absence of
 1878 bad faith, is relieved of all obligations to collect, pay, or remit any tax on any
 1879 transaction involving 'advertising and promotional direct mail' to which the permit,
 1880 certificate, or statement applies. The purchaser shall source the sale to the jurisdictions
 1881 to which the 'advertising and promotional direct mail' is to be delivered to the recipients
 1882 and shall report and pay any applicable tax due;

1883 (C) If the purchaser provides the seller information showing the jurisdictions to which
 1884 the 'advertising and promotional direct mail' is to be delivered to recipients, the seller
 1885 shall source the sale to the jurisdictions to which the 'advertising and promotional direct
 1886 mail' is to be delivered and shall collect and remit the applicable tax. In the absence of
 1887 bad faith, the seller is relieved of any further obligation to collect any additional tax on
 1888 the sale of 'advertising and promotional direct mail' where the seller has sourced the
 1889 sale according to the delivery information provided by the purchaser; and

1890 (D) If the purchaser does not provide the seller with any of the items listed in
 1891 subparagraph (A) of this paragraph, the sale shall be sourced according to Section

1892 310.A.5 of the Streamlined Sales and Use Tax Agreement. The state to which the
 1893 'advertising and promotional direct mail' is delivered may disallow credit for tax paid
 1894 on sales sourced under this paragraph.

1895 (2) Notwithstanding subsection (1) of this Code section, the following provisions shall
 1896 apply to sales of 'other direct mail':

1897 (A) Except as otherwise provided in this paragraph, sales of 'other direct mail' are
 1898 sourced in accordance with subparagraph (1)(1)(A) of this Code section;

1899 (B) A purchaser of 'other direct mail' may provide the seller with either:

1900 (i) A direct pay permit; or

1901 (ii) An agreement certificate of exemption claiming 'direct mail' or other written
 1902 statement approved, authorized, or accepted by the state; and

1903 (C) If the purchaser provides the permit, certificate, or statement referred to in
 1904 paragraph (1) or (2) of this subsection, the seller, in the absence of bad faith, is relieved
 1905 of all obligations to collect, pay or remit any tax on any transaction involving 'other
 1906 direct mail' to which the permit, certificate, or statement apply. Notwithstanding
 1907 paragraph (1) of this subsection, the sale shall be sourced to the jurisdictions to which
 1908 the 'other direct mail' is to be delivered to the recipients and the purchaser shall report
 1909 and pay applicable tax due.

1910 (3) For purposes of this subsection, the term:

1911 (A) 'Advertising and promotional direct mail' means:

1912 (i) Printed material that meets the definition of 'direct mail,' under Code Section
 1913 48-8-2;

1914 (ii) The primary purpose of which is to attract public attention to a product, person,
 1915 business, or organization, or to attempt to sell, popularize, or secure financial support
 1916 for a product, person, business, or organization. As used in this division, the term
 1917 'product' means tangible personal property, a product transferred electronically or a
 1918 service.

1919 (B) 'Other direct mail' means any direct mail that is not 'advertising and promotional
 1920 direct mail' regardless of whether 'advertising and promotional direct mail' is included
 1921 in the same mailing. The term includes, but is not limited to:

1922 (i) Transactional direct mail that contains personal information specific to the
 1923 addressee including, but not limited to, invoices, bills, statements of account, and
 1924 payroll advices;

1925 (ii) Any legally required mailings including, but not limited to, privacy notices, tax
 1926 reports, and stockholder reports; and

1927 (iii) Other nonpromotional direct mail delivered to existing or former shareholders,
 1928 customers, employees, or agents including, but not limited to, newsletters and
 1929 informational messages.

1930 Other direct mail does not include the development of billing information or the
 1931 provision of any data processing service that is more than incidental.

1932 (4)(A)(i) This paragraph shall apply to a transaction characterized under this chapter
 1933 as the sale of services only if the service is an integral part of the production and
 1934 distribution of printed material that meets the definition of 'direct mail.'

1935 (ii) This paragraph shall not apply to any transaction that includes the development
 1936 of billing information or the provision of any data processing service that is more than
 1937 incidental regardless of whether 'advertising and promotional direct mail' is included
 1938 in the same mailing.

1939 (B) If a transaction is a 'bundled transaction' that includes 'advertising and promotion
 1940 direct mail,' this subsection shall apply only if the primary purpose of the transaction
 1941 is the sale of products or services that meet the definition of 'advertising and
 1942 promotional direct mail.'

1943 (C) Nothing in this paragraph shall limit any purchaser's:

1944 (i) Obligation for sales or use tax to any state to which the direct mail is delivered,

1945 (ii) Right under local, state, federal, or constitutional law, to a credit for sales or use
 1946 taxes legally due and paid to other jurisdictions; or

1947 (iii) Right to a refund of sales or use taxes overpaid to any jurisdiction.

1948 (D) This subsection applies for purposes of uniformly sourcing 'direct mail'
 1949 transactions and does not otherwise impose requirements regarding the taxation of
 1950 products that meet the definition of 'direct mail' or to the application of sales for resale
 1951 or other exemptions.

1952 (o)(1) Except for the defined telecommunication services in paragraph (3) of this
 1953 subsection, the sale of telecommunication service sold on a call-by-call basis shall be
 1954 sourced to:

1955 (A) Each level of taxing jurisdiction where the call originates and terminates in that
 1956 jurisdiction; or

1957 (B) Each level of taxing jurisdiction where the call either originates or terminates and
 1958 in which the service address is also located.

1959 (2) Except for the defined telecommunication services in paragraph (3) of this
 1960 subsection, a sale of telecommunications services sold on a basis other than a call-by-call
 1961 basis, is sourced to the customer's place of primary use.

1962 (3) A sale of prepaid calling service or a sale of a prepaid wireless calling service is
 1963 sourced in accordance with subsection (l) of this Code section; provided, however, that

1964 in the case of a sale of prepaid wireless calling service, the rule provided in
 1965 subparagraph (1)(1)(E) of this Code Section shall include as an option the location
 1966 associated with the mobile telephone number.

1967 (4) The sale of an ancillary service is sourced to the customer's place of primary use."

1968 **SECTION 5.**

1969 Said title is further amended by revising Code Section 48-8-31, relating to designation of
 1970 price brackets, as follows:

1971 "48-8-31.

1972 ~~Except as otherwise provided in Code Section 48-8-30, the commissioner may prepare~~
 1973 ~~suitable brackets of prices for the collection of the tax imposed by this article. The use of~~
 1974 ~~tokens is prohibited~~ Tax computation must be carried to the third decimal place, and the
 1975 tax must be rounded to a whole cent using a method that rounds up to the next cent
 1976 whenever the third decimal place is greater than four."

1977 **SECTION 6.**

1978 Said title is further amended by revising Code Section 48-8-32, relating to tax collection
 1979 from dealers, as follows:

1980 "48-8-32.

1981 The tax at the rate of 4 percent of the retail sales price at the time of sale or 4 percent of the
 1982 ~~cost~~ purchase price at the time of purchase, as the case may be, shall be collectable from
 1983 all persons engaged as dealers in the sale at retail, or in the use, consumption, distribution,
 1984 or storage for use or consumption in this state of tangible personal property."

1985 **SECTION 7.**

1986 Said title is further amended by revising Code Section 48-8-38, relating to taxability burden
 1987 of proof, as follows:

1988 "48-8-38.

1989 (a) All gross sales of a retailer are subject to the tax imposed by this article until the
 1990 contrary is established. The burden of proving that a sale of tangible personal property is
 1991 not a sale at retail is upon the person who makes the sale unless he takes from the purchaser
 1992 a certificate stating that the property is purchased for resale or is otherwise exempt.

1993 (b) The certificate relieves the seller from the burden of proof as provided in subsection
 1994 (a) of this Code section ~~only if taken in good faith if the seller acquires from a person who:~~
 1995 the purchaser a properly completed certificate.

1996 ~~(1) Is engaged in the business of selling tangible personal property;~~

1997 ~~(2) Holds the permit provided for in this article; and~~

1998 ~~(3) At the time of purchasing the tangible personal property, intends to sell it in the~~
 1999 ~~regular course of business or is unable to ascertain at the time of purchase whether the~~
 2000 ~~property will be sold or will be used for some other purpose.~~

2001 (c) The certificate ~~stating that the property is purchased for resale shall:~~ include such
 2002 information as is determined by the commissioner and is signed by the purchaser if it is a
 2003 paper exemption certificate.

2004 ~~(1) Be signed by and bear the name and address of the purchaser;~~

2005 ~~(2) Indicate the number of the permit issued to the purchaser; and~~

2006 ~~(3) Indicate the general character of the tangible personal property sold by the purchaser~~
 2007 ~~in the regular course of business."~~

2008 SECTION 8.

2009 Said title is further amended by revising Code Section 48-8-39, relating to property retention,
 2010 demonstration, or display, as follows:

2011 "48-8-39.

2012 (a) If a purchaser who gives a certificate stating that property is purchased for resale makes
 2013 any use of the property other than retention, demonstration, or display while holding it for
 2014 sale in the regular course of business, the use shall be deemed a retail sale by the purchaser
 2015 as of the time the property is first used by him and the ~~cost~~ purchase price of the property
 2016 to him shall be deemed the gross receipts from the retail sale. If the sole use of the
 2017 property other than retention, demonstration, or display in the regular course of business
 2018 is the rental of the property while holding it for sale or the transportation of persons for hire
 2019 while holding the property for sale, the purchaser may elect to include in his gross receipts
 2020 either the amount of the rental charged or the total amount of the charges made by him for
 2021 the transportation rather than the cost of the property to him.

2022 (b)(1)(A) If a person who engages in the business of processing, manufacturing, or
 2023 converting industrial materials into articles of tangible personal property for sale,
 2024 whether as custom-made or stock items, makes any use of the article of tangible
 2025 personal property other than retaining, demonstrating, or displaying it for sale, the use
 2026 shall be deemed a retail sale as of the time the article is first used by such person and
 2027 its fair market value at the time shall be deemed the sales price of the article, except as
 2028 otherwise provided in subparagraph (B) of this paragraph.

2029 (B)(i) As used in this subparagraph, the term 'total raw material cost' means the
 2030 manufactured cost of carpet samples; supplies used in the manufacturing of carpet
 2031 samples such as binding, grommets, and similar items; carpet sample display devices
 2032 such as racks, binders, and similar items; and inbound freight charges. Such term
 2033 does not mean or include labor or overhead for assembling or producing samples from

2034 finished carpet and does not mean or include outbound freight charges which may be
2035 charged to the expense account for carpet samples.

2036 (ii) For purposes of subparagraph (A) of this paragraph, the fair market value of any
2037 carpet sample shall be equal to 21.9 percent of the total raw material cost of the
2038 sample, except that the fair market value of a sample of carpet that is manufactured
2039 exclusively for commercial use shall be equal to 1 percent of the total raw material
2040 cost of the sample.

2041 (2) If the sole use of the article other than retaining, demonstrating, or displaying it for
2042 sale is the rental of the article while holding it for sale, the processor, manufacturer, or
2043 converter may elect to treat the amount of the rental charged rather than the fair market
2044 value of the article as its sales price."

2045 SECTION 9.

2046 Said title is further amended by revising Code Section 48-8-45, relating to reporting of sales
2047 and accounting methods, as follows:

2048 "48-8-45.

2049 (a) Any person taxable under this article having both cash and credit sales may report the
2050 sales on either the cash or accrual basis of accounting. Each election of a basis of
2051 accounting shall be made on the first return filed and, once made, the election shall be
2052 irrevocable unless the commissioner grants written permission for a change. Permission
2053 for a change in the basis of accounting shall be granted only upon written application and
2054 under rules and regulations promulgated by the commissioner.

2055 (b) Any person reporting on a cash basis of accounting shall include in each return all cash
2056 sales made during the period covered by the return and all collections made in any period
2057 on credit sales of prior periods and shall pay the tax on the sales at the time of filing the
2058 return.

2059 (c) Any person reporting on the accrual basis of accounting shall be allowed a deduction
2060 for bad debts under rules and regulations of the commissioner ~~on the same basis that bad~~
2061 ~~debts are allowed as a deduction on state income tax returns.~~

2062 (d) An assignee of private label credit card debt purchased directly from a dealer without
2063 recourse or a credit card bank which extends such credit to customers under a private label
2064 credit card program shall be allowed a deduction for private label credit card bad debts
2065 under rules and regulations of the commissioner ~~on the same basis that private label credit~~
2066 ~~card bad debts are allowed as a deduction on state income tax returns.~~ An issuer or
2067 assignee of private label credit card debt may claim its deduction for private label credit
2068 card bad debts on a return filed by a member of an affiliated group as defined under 26
2069 U.S.C. Section 1504."

SECTION 10.

2070

2071 Said title is further amended by revising Code Section 48-8-49, relating to dealer returns and
2072 estimated tax liability, as follows:

2073 "48-8-49.

2074 (a) Each dealer, on or before the twentieth day of each month, shall transmit returns to the
2075 commissioner showing the gross sales and purchases arising from all sales and purchases
2076 taxable under this article during the preceding calendar month. The commissioner may
2077 provide by regulation for quarterly or annual returns or, upon application, may permit a
2078 dealer to file a return on a quarterly or annual basis if deemed advisable by the
2079 commissioner. The returns required by this subsection shall be made upon forms
2080 prescribed, prepared, and furnished by the commissioner.

2081 (b)(1) As used in this subsection, the term 'estimated tax liability' means a dealer's tax
2082 liability, adjusted to account for any subsequent change in the state sales and use tax rate,
2083 based on the dealer's average monthly payments for the last fiscal year.

2084 (2) If the ~~estimated tax liability of a dealer for any taxable period exceeds \$5,000.00 in~~
2085 the preceding calendar year was greater than \$30,000.00 excluding local sales taxes, the
2086 dealer shall file a return and remit to the commissioner not less than 50 percent of the
2087 estimated tax liability for the taxable period on or before the twentieth day of the period.
2088 The amount of the payment of the estimated tax liability shall be credited against the
2089 amount to be due on the return required under subsection (a) of this Code section. This
2090 subsection shall not apply to ~~any dealer unless during the previous fiscal year the dealer's~~
2091 ~~monthly payments exceeded \$5,000.00 per month for three consecutive months or more~~
2092 ~~nor shall this subsection apply to any dealer whose primary business is the sale of motor~~
2093 ~~fuels who is remitting prepaid state tax under paragraph (2) of subsection (b) of Code~~
2094 ~~Section 48-9-14. No local sales taxes shall be included in determining any estimated tax~~
2095 ~~liability.~~

2096 (c) Gross proceeds from rentals or leases of tangible personal property shall be reported
2097 and the tax shall be paid with respect to the gross proceeds in accordance with the rules and
2098 regulations prescribed by the commissioner.

2099 (d)(1) The commissioner, in his discretion, may grant extensions, upon written
2100 application, to the end of the calendar month in which any tax return is due under this
2101 Code section.

2102 (2) No extension granted pursuant to paragraph (1) of this subsection shall be valid
2103 unless granted in writing and only for a period of not more than 12 consecutive months.

2104 (3) Upon the grant of any extension authorized by this subsection, the taxpayer shall
2105 remit to the commissioner on or before the date the tax would otherwise become due
2106 without the grant of the extension an amount which, when added to the amount

2107 previously remitted for the period pursuant to subsection (b) of this Code section, equals
 2108 not less than 100 percent of the dealer's payment for the corresponding period of the
 2109 preceding tax year.

2110 (4) No interest or penalty shall be charged, assessed, or collected by reason of the
 2111 granting of an extension pursuant to this subsection.

2112 (5) This subsection shall apply to all extensions granted pursuant to this subsection on
 2113 or after July 1, 1980, and to all extensions granted pursuant to this subsection and in
 2114 effect on July 1, 1980."

2115 **SECTION 11.**

2116 Said title is further amended by revising Code Section 48-8-50, relating to dealer
 2117 compensation, as follows:

2118 "48-8-50.

2119 (a) As used in this Code section, the term 'affiliated entity' means with respect to any
 2120 corporation, sole proprietorship, partnership, limited partnership, enterprise, franchise,
 2121 association, trust, joint venture, or other entity, any other corporation, sole proprietorship,
 2122 partnership, limited partnership, enterprise, franchise, association, trust, joint venture, or
 2123 other entity related thereto:

2124 (1) As a parent, subsidiary, sister, or daughter corporation, sole proprietorship,
 2125 partnership, limited partnership, enterprise, franchise, association, trust, joint venture, or
 2126 other entity;

2127 (2) By control of one corporation, sole proprietorship, partnership, limited partnership,
 2128 enterprise, franchise, association, trust, joint venture, or other entity by the other; or

2129 (3) By any other common ownership or control.

2130 (b) Each dealer required to file a return under this article shall include such dealer's
 2131 certificate of registration number or numbers for each sales location or affiliated entity of
 2132 such dealer on such return. In reporting and paying the amount of tax due under this
 2133 article, each dealer shall be allowed the following deduction, but only if the return was
 2134 timely filed and the amount due was not delinquent at the time of payment; and that
 2135 deduction shall be subject to the provisions of subsection (f) of this Code section pertaining
 2136 to calculation of the deduction when more than one tax is reported on the same return:

2137 (1) With respect to each certificate of registration number on such return, a deduction of
 2138 3 percent of the first \$3,000.00 of the combined total amount of all sales and use taxes
 2139 reported due on such return for each location other than the taxes specified in paragraph
 2140 (3) of this subsection;

2141 (2) With respect to each certificate of registration number on such return, a deduction of
 2142 one-half of 1 percent of that portion exceeding \$3,000.00 of the combined total amount

2143 of all sales and use taxes reported due on such return for each location other than the
2144 taxes specified in paragraph (3) of this subsection;

2145 (3) With respect to each certificate of registration number on such return, a deduction of
2146 3 percent of the combined total amount due of all sales and use taxes on motor fuel as
2147 defined under paragraph (9) of Code Section 48-9-2, which are imposed under any
2148 provision of this title, including, but not limited to, sales and use taxes on motor fuel
2149 imposed under any of the provisions described in subsection (f) of this Code section but
2150 not including Code Section 48-9-14; and

2151 (4) A deduction with respect to Code Section 48-9-14, as defined in paragraph (5.2) of
2152 Code Section 48-8-2, shall be at the rate of one-half of 1 percent of the total amount due
2153 of the prepaid state tax reported due on such return, so long as the return and payment are
2154 timely, regardless of the classification of tax return upon which the remittance is made.

2155 (c) The department shall compile and maintain a master registry of the certificate of
2156 registration numbers filed on such returns with respect to all the affiliated business entities
2157 and multiple locations of each dealer and shall assign a master number to each dealer.
2158 Each dealer required to file a return under this article shall also include such dealer's master
2159 number on such return if such number has been assigned by the department under this
2160 subsection.

2161 (d) With respect to a dealer which consists of only a single sales location or which consists
2162 of a group of fewer than four sales locations or affiliated entities, or any combination
2163 thereof, claiming such deduction, a separate return shall be filed for each sales location and
2164 affiliated entity for each reporting period. With respect to a dealer which consists of a
2165 group of four or more sales locations or affiliated entities, or any combination thereof,
2166 claiming such deduction, a single, consolidated return shall be filed for such entire group.
2167 A consolidated return under this subsection shall be used for the purpose of identifying the
2168 sales locations or affiliated entities of a dealer and such consolidated return shall identify
2169 separately the reporting and paying of the tax due under this article for each sales location
2170 or affiliated entity of such dealer. The deduction requirements of subsection (b) of this
2171 Code section shall apply separately to each certificate of registration number on such
2172 return.

2173 (e) No deduction shall be allowed under this Code section unless all of the requirements
2174 of subsections (b), (c), and (d) of this Code section have been satisfied.

2175 (f) The deduction authorized under this Code section shall be combined with and
2176 calculated with the deductions authorized under Code Section 48-8-87, Code Section
2177 48-8-104, Code Section 48-8-113, Code Section 48-8-204, Section 25 of an Act approved
2178 March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid
2179 Transit Authority Act of 1965,' and any other sales tax, use tax, or sales and use tax which

2180 is levied and imposed in an area consisting of less than the entire state, however authorized,
 2181 by applying the deduction rate specified in this Code section against the combined total of
 2182 all such taxes reported due on the same return.

2183 (g) The reimbursement deduction authorized under Section 25 of an Act approved March
 2184 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit
 2185 Authority Act of 1965,' shall be at the rate and subject to the requirements specified under
 2186 subsections (b) through (f) of this Code section.

2187 (h) Each certified service provider as defined in Code Section 48-8-161 shall receive the
 2188 amount provided in the contract between the certified service provider and the Streamlined
 2189 Sales Tax Governing Board."

2190 **SECTION 12.**

2191 Said title is further amended by revising Code Section 48-8-52, relating to dealers' duty to
 2192 keep records, examination, assessment, and collection, as follows:

2193 "48-8-52.

2194 (a)(1) Each dealer required to make a return and pay any tax under this article shall keep
 2195 and preserve:

2196 (A) Suitable records of the sales and purchases taxable under this article;

2197 (B) Other books of account which are necessary to determine the amount of tax due;

2198 (C) Other information as required by the commissioner; and

2199 (D) For a period of three years, all invoices and other records of goods, wares,
 2200 merchandise, and other subjects of taxation under this article.

2201 (2) All books, invoices, and other records required to be kept by this subsection shall be
 2202 open to examination at all reasonable hours by the commissioner or any of his duly
 2203 authorized agents.

2204 (b) In the event the dealer has imported tangible personal property and fails to produce an
 2205 invoice showing the ~~cost~~ purchase price of each article subject to tax or if the invoice does
 2206 not reflect the true or actual ~~cost~~ purchase price, the commissioner shall ascertain in any
 2207 manner feasible the true ~~cost~~ purchase price and shall assess and collect the tax with
 2208 interest and penalties as accrued on the true ~~cost~~ purchase price as assessed by the
 2209 commissioner. The assessment so made shall be considered prima facie correct and the
 2210 burden to show the contrary shall rest upon the dealer.

2211 (c) In the case of the lease or rental of tangible personal property when the consideration
 2212 reported by the dealer does not, in the judgment of the commissioner, represent the true or
 2213 actual consideration, the commissioner may fix the true or actual consideration and collect
 2214 the tax on the consideration in the same manner as provided in Code Section 48-8-51, with
 2215 interest and penalties as accrued."

2216 **SECTION 13.**

2217 Said title is further amended by revising Code Section 48-8-58, relating to return allowances,
2218 as follows:

2219 "48-8-58.

2220 (a)(1) As used in this subsection, the term 'return allowance' means the amount of the
2221 sales price or ~~cost~~ purchase price refunded by the dealer to the purchaser in cash or credit.
2222 No credit shall be allowed to the dealer under this subsection for taxes collected by such
2223 dealer from the purchaser unless the taxes collected have been returned by the dealer to
2224 the purchaser.

2225 (2) When property sold is subsequently returned by agreement to the dealer by the
2226 purchaser, the dealer shall be entitled to credit for the tax imposed by this article with
2227 respect to the return allowance, in the manner prescribed by the commissioner, as
2228 follows:

2229 (A) The dealer in the original return for the taxable period in which the return of the
2230 property is allowed may deduct from the dealer's gross sales the amount of the return
2231 allowance; or

2232 (B) When a dealer has retired from business and has filed a final return, a claim for
2233 refund of the tax for which the dealer would be entitled to credit under this subsection
2234 may be filed within the time and in the manner prescribed under Code Section 48-2-35.

2235 (b) The commissioner shall make available to dealers all necessary forms for filing returns
2236 and instructions to ensure a full collection from dealers and an accounting for the taxes due.
2237 Failure of any dealer to secure the commissioner's forms shall not relieve the dealer from
2238 the payment of the tax at the time and in the manner provided in this article.

2239 (c) The commissioner shall promulgate any rules and regulations necessary to implement
2240 this Code section."

2241 **SECTION 14.**

2242 Said title is further amended by revising Code Section 48-8-59, relating to dealer certificates
2243 of registration, as follows:

2244 "48-8-59.

2245 (a)(1) Every person desiring to engage in or conduct business as a seller or dealer in this
2246 state shall file with the commissioner an application for a certificate of registration for
2247 each place of business.

2248 (2) Each person whose business extends into more than one county shall be required to
2249 secure only one certificate of registration under this article. The certificate of registration
2250 shall cover all operations of the company throughout this state.

- 2251 (b) Every application for a certificate of registration shall be made upon a form prescribed
 2252 by the commissioner and shall contain the name under which the applicant transacts or
 2253 intends to transact business, the location of his place or places of business, and such other
 2254 information as the commissioner may require. The Except for sellers or dealers who
 2255 register with the Streamlined Sales Tax Governing board, the application shall be signed:
 2256 (1) If the owner is an individual, by the individual;
 2257 (2) In the case of an association or partnership, by a member or partner; or
 2258 (3) In the case of a corporation, by an executive officer or some other person specifically
 2259 authorized by the corporation to sign the application. Written evidence of this authority
 2260 to sign shall be attached to the application.
- 2261 (c) When the required application has been made, the commissioner shall issue to the
 2262 applicant a separate certificate of registration for each place of business within the state.
 2263 A certificate of registration is not assignable and is valid only for the person in whose name
 2264 it is issued and for the transaction of business at the place designated in the certificate. The
 2265 certificate shall be conspicuously displayed at all times at the place for which the certificate
 2266 is issued.
- 2267 (d) A seller whose certificate of registration has been previously suspended or revoked
 2268 shall pay the commissioner a fee of \$1.00 for the renewal or issuance of a certificate of
 2269 registration."

2270 SECTION 15.

2271 Said title is further amended by adding new Code sections to read as follows:

2272 "48-8-68.

2273 If the sales tax rate changes with less than 30 days between the enactment of the rate
 2274 change and the effective date of such rate change, sellers shall be relieved of liability for
 2275 failing to collect tax at the new rate if:

- 2276 (1) The seller collected tax at the immediately preceding effective rate; and
 2277 (2) The seller's failure to collect at the newly effective rate does not extend beyond 30
 2278 days after the date of enactment of the new rate.

2279 The provisions of this Code section do not apply if the commissioner establishes that the
 2280 seller fraudulently failed to collect at the new rate or solicits purchasers based on the
 2281 immediately preceding effective rate.

2282 48-8-69.

2283 (a) Any local sales tax rate changes made pursuant to this chapter shall apply to purchases
 2284 from printed catalogs wherein the purchaser computed the tax based upon local tax rates

2285 published in the catalog only on the first day of a calendar quarter after a minimum of 120
 2286 days' notice to sellers.

2287 (b) For sales and use tax purposes only, local jurisdiction boundary changes are effective
 2288 only on the first day of a calendar quarter after a minimum of 60 days' notice to sellers.

2289 48-8-70.

2290 If a nine-digit zip code designation is not available for a street address or if a seller or
 2291 certified service provider is unable to determine the nine-digit zip code designation
 2292 applicable to a purchase after exercising due diligence to determine the designation, the
 2293 seller or certified service provider may apply the rate for the five-digit zip code area. For
 2294 the purposes of this Code section, there is a rebuttable presumption that a seller or certified
 2295 service provider has exercised due diligence if the seller has attempted to determine the
 2296 nine digit zip code designation by utilizing software approved by the Streamlined Sales Tax
 2297 Governing Board that makes this designation from the street address and the five-digit zip
 2298 code applicable to a purchase.

2299 48-8-71.

2300 Sellers and certified service providers shall not be liable for having charged and collected
 2301 the incorrect amount of sales or use tax resulting from the seller or certified service
 2302 provider relying on erroneous data provided by this state on state and local tax rates, local
 2303 boundaries, and taxing jurisdiction assignments.

2304 48-8-72.

2305 (a) A cause of action against a seller for over-collected sales or use taxes does not accrue
 2306 until a purchaser has provided written notice to the seller and the seller has had 60 days to
 2307 respond. Such notice to the seller must contain the information necessary to determine the
 2308 validity of the request.

2309 (b) In connection with a purchaser's request from a seller of over-collected sales or use
 2310 taxes, a seller shall be presumed to have a reasonable business practice, if in the collection
 2311 of such sales or use taxes, the seller:

2312 (1) Uses either a provider or a system, including a proprietary system, that is certified by
 2313 the state; and

2314 (2) Has remitted to the state all taxes collected less any deductions, credits, or collection
 2315 allowances.

2316 48-8-73.

2317 A seller and certified service provider are relieved of liability for having charged and
 2318 collected the incorrect amount of sales or use tax resulting from the seller or certified
 2319 service provider relying on erroneous data provided by this state in the taxability matrix.

2320 48-8-74.

2321 The effective date for a sales tax rate change for services covering a period starting before
 2322 and ending after the statutory effective date shall be as follows:

2323 (1) For a rate increase, the new rate shall apply to the first billing period starting on or
 2324 after the effective date; and

2325 (2) For a rate decrease, the new rate shall apply to bills rendered on or after the effective
 2326 date.

2327 48-8-75.

2328 (a) A purchaser shall be relieved from liability for penalty for having failed to pay the
 2329 correct amount of sales or use tax if:

2330 (1) A purchaser's seller or certified service provider relied on erroneous data provided
 2331 by this state on tax rates, boundaries, taxing jurisdiction assignments, or in the taxability
 2332 matrix completed by this state;

2333 (2) A purchaser holding a direct pay permit relied on erroneous data provided by this
 2334 state on tax rates, boundaries, taxing jurisdiction assignments, or in the taxability matrix
 2335 completed by this state;

2336 (3) A purchaser relied on erroneous data provided by this state in the taxability matrix
 2337 completed by this state; or

2338 (4) A purchaser using databases provided by this state relied on erroneous data provided
 2339 by this state on tax rates, boundaries, or taxing jurisdiction assignments.

2340 (b) A purchaser shall be relieved from liability for tax and interest for having failed to pay
 2341 the correct amount of sales or use tax in the circumstances described subsection (a) of this
 2342 Code section provided that, with respect to reliance on the taxability matrix completed by
 2343 this state, such relief is limited to the state's erroneous classification in the taxability matrix
 2344 of terms included in the Library of Definitions as 'taxable' or 'exempt,' 'included in sales
 2345 price,' or 'excluded from sales price' or 'included in the definition' or 'excluded from the
 2346 definition.'

2347 48-8-76.

2348 (a) A seller who registers to pay or to collect and remit applicable sales or use tax on sales
 2349 made to purchasers in this state in accordance with the terms of the Streamline Sales and

2350 Use Tax Agreement is relieved from the obligation to remit uncollected sales tax provided
 2351 the seller was not so registered in this state in the twelve-month period preceding the
 2352 effective date of this state's participation in the Streamline Sales and Use Tax Agreement.
 2353 (b) The relief provided in subsection (a) of this Code section precludes an assessment for
 2354 uncollected or unpaid sales together with penalty or interest for sales made during the
 2355 period the seller was not registered in this state, provided that the registration occurs within
 2356 12 months of the effective date of this state's participation in the Streamline Sales and Use
 2357 Tax Agreement.
 2358 (c) The relief provided in subsection (a) of this Code section shall not be available to a
 2359 seller with respect to any matter or matters for which the seller received notice of the
 2360 commencement of an audit and which audit is not yet finally resolved including any related
 2361 administrative and judicial processes.
 2362 (d) The relief provided in subsection (a) of this Code section shall not be available for
 2363 sales or use taxes already paid or remitted to this state or to taxes collected by the seller.
 2364 (e) The relief provided in subsection (a) of this Code section is fully effective, absent the
 2365 seller's fraud or intentional misrepresentation of a material fact, as long as the seller
 2366 continues registration and continues payment or collection and remittance of applicable
 2367 sales or use taxes for a period of at least 36 months. The statute of limitations applicable
 2368 to asserting a tax liability is tolled during this 36 month period.
 2369 (f) The relief provided in subsection (a) of this Code section is applicable only to sales or
 2370 use taxes due from a seller in its capacity as a seller and not to sales or use taxes due from
 2371 a seller in its capacity as a buyer."

2372 **SECTION 16.**

2373 Said title is further amended by revising Code Section 48-8-82, relating to imposition of the
 2374 joint county and municipal sales and use tax, as follows:

2375 "48-8-82.

2376 When the imposition of a joint county and municipal sales and use tax is authorized
 2377 according to the procedures provided in this article within a special district, the county
 2378 whose geographical boundary is conterminous with that of the special district and each
 2379 qualified municipality located wholly or partially within the special district shall levy a
 2380 joint sales and use tax at the rate of 1 percent. Except as to rate, the joint tax shall
 2381 correspond to the tax imposed and administered by Article 1 of this chapter. No item or
 2382 transaction which is not subject to taxation by Article 1 of this chapter shall be subject to
 2383 the tax levied pursuant to this article, except that the joint tax provided in this article shall
 2384 be applicable to sales of motor fuels as prepaid local tax as that term is defined by
 2385 paragraph (5.1) of Code Section 48-8-2 and shall be applicable to the sale of food and food

2386 ingredients and alcoholic beverages only to the extent provided for in paragraph (57) of
 2387 Code Section 48-8-3."

2388 **SECTION 17.**

2389 Said title is further amended by revising Code Section 48-8-102, relating to imposition of the
 2390 homestead option sales and use tax, as follows:

2391 "48-8-102.

2392 (a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the
 2393 Constitution of this state, there are created within this state 159 special districts. The
 2394 geographical boundary of each county shall correspond with and shall be conterminous
 2395 with the geographical boundary of one of the 159 special districts.

2396 (b) When the imposition of a local sales and use tax is authorized according to the
 2397 procedures provided in this article within a special district, the county whose geographical
 2398 boundary is conterminous with that of the special district shall levy a local sales and use
 2399 tax at the rate of 1 percent. Except as to rate, the local sales and use tax shall correspond
 2400 to the tax imposed and administered by Article 1 of this chapter. No item or transaction
 2401 which is not subject to taxation by Article 1 of this chapter shall be subject to the sales and
 2402 use tax levied pursuant to this article, except that the sales and use tax provided in this
 2403 article shall be applicable to sales of motor fuels as prepaid local tax as that term is defined
 2404 by paragraph (5.1) of Code Section 48-8-2 and shall be applicable to the sale of food and
 2405 food ingredients and alcoholic beverages only to the extent provided for in paragraph (57)
 2406 of Code Section 48-8-3.

2407 (c)(1) Except as otherwise provided in paragraph (2) of this subsection, the proceeds of
 2408 the sales and use tax levied and collected under this article shall be used only for the
 2409 purposes of funding capital outlay projects and of funding services within a special
 2410 district equal to the revenue lost to the homestead exemption as provided in Code Section
 2411 48-8-104 and, in the event excess funds remain following the expenditure for such
 2412 purposes, such excess funds shall be expended as provided in subparagraph (c)(2)(C) of
 2413 Code Section 48-8-104.

2414 (2) Prior to January 1 of the year immediately following the first complete calendar year
 2415 in which the sales and use tax under this article is imposed, such proceeds may be used
 2416 for funding all or any portion of those services which are to be provided by the governing
 2417 authority of the county whose geographic boundary is conterminous with that of the
 2418 special district pursuant to and in accordance with Article IX, Section II, Paragraph III
 2419 of the Constitution of this state.

2420 (d) Such sales and use tax shall only be levied in a special district following the enactment
 2421 of a local Act which provides for a homestead exemption of an amount to be determined

2422 from the amount of sales and use tax collected under this article. Such exemption shall
 2423 commence with taxable years beginning on or after January 1 of the year immediately
 2424 following the first complete calendar year in which the sales and use tax under this article
 2425 is levied. Any such local Act shall incorporate by reference the terms and conditions
 2426 specified under this article. Any such local Act shall not be subject to the provisions of
 2427 Code Section 1-3-4.1. Any such homestead exemption under this article shall be in
 2428 addition to and not in lieu of any other homestead exemption applicable to county taxes for
 2429 county purposes within the special district. Notwithstanding any provision of such local
 2430 Act to the contrary, the referendum which shall otherwise be required to be conducted
 2431 under such local Act shall only be conducted if the resolution required under subsection (a)
 2432 of Code Section 48-8-103 is adopted prior to the issuance of the call for the referendum
 2433 under the local Act by the election superintendent. If such ordinance is not adopted by that
 2434 date, the referendum otherwise required to be conducted under the local Act shall not be
 2435 conducted.

2436 (e) No sales and use tax shall be levied in a special district under this article in which a tax
 2437 is levied and collected under Article 2 of this chapter."

2438 **SECTION 18.**

2439 Said title is further amended by revising Code Section 48-8-110.1, relating to imposition of
 2440 the county special purpose local option sales tax, as follows:

2441 "48-8-110.1.

2442 (a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the
 2443 Constitution of this state, there are created within this state 159 special districts. The
 2444 geographical boundary of each county shall correspond with and shall be conterminous
 2445 with the geographical boundary of the 159 special districts.

2446 (b) When the imposition of a special district sales and use tax is authorized according to
 2447 the procedures provided in this part within a special district, the governing authority of any
 2448 county in this state may, subject to the requirement of referendum approval and the other
 2449 requirements of this part, impose within the special district a special sales and use tax for
 2450 a limited period of time which tax shall be known as the county special purpose local
 2451 option sales tax.

2452 (c) Any tax imposed under this part shall be at the rate of 1 percent. Except as to rate, a
 2453 tax imposed under this part shall correspond to the tax imposed by Article 1 of this chapter.
 2454 No item or transaction which is not subject to taxation under Article 1 of this chapter shall
 2455 be subject to a tax imposed under this part, except that a tax imposed under this part shall
 2456 apply to sales of motor fuels as prepaid local tax as that term is defined by paragraph (5.1)

2457 of Code Section 48-8-2 and shall be applicable to the sale of food and food ingredients and
 2458 alcoholic beverages as provided for in division (57)(D)(i) of Code Section 48-8-3."

2459 **SECTION 19.**

2460 Said title is further amended by revising Code Section 48-8-161, relating to definitions
 2461 regarding the Streamlined Sales and Use Tax Agreement, as follows:

2462 "48-8-161.

2463 As used in this article, the term:

2464 (1) 'Agent' means a person appointed by a seller to represent the seller before the
 2465 member states.

2466 ~~(1)~~(2) 'Agreement' means the Streamlined Sales and Use Tax Agreement.

2467 ~~(2)~~(3) 'Certified automated system' means software certified jointly by the states that are
 2468 signatories to the agreement to calculate the tax imposed by each jurisdiction on a
 2469 transaction, determine the amount of tax to remit to the appropriate state, and maintain
 2470 a record of the transaction.

2471 ~~(3)~~(4) 'Certified service provider' means an agent certified jointly by the states that are
 2472 signatories to the agreement to perform all of the seller's sales tax functions.

2473 (5) 'Model 1 seller' means a seller registered under the agreement that has selected a
 2474 certified service provider as its agent to perform all the seller's sales and use tax
 2475 functions, other than the seller's obligation to remit tax on its own purchases.

2476 (6) 'Model 2 seller' means a seller registered under the agreement that has selected a
 2477 certified automated system to perform part of its sales and use tax functions, but retains
 2478 responsibility for remitting the tax.

2479 (7) 'Model 3 seller' means seller registered under the agreement that has sales in at least
 2480 five member states, has total annual sales revenue of at least five hundred million dollars,
 2481 has a proprietary system that calculates the amount of tax due each jurisdiction, and has
 2482 entered into a performance agreement with the member states that establishes a tax
 2483 performance standard for the seller. As used in this definition, a seller includes an
 2484 affiliated group of sellers using the same proprietary system.

2485 (8) 'Model 4 seller' means a seller that is not a 'Model 1 seller', a 'Model 2 seller', or a
 2486 'Model 3 seller.'

2487 ~~(4)~~(9) 'Person' means an individual, trust, estate, fiduciary, partnership, limited liability
 2488 company, limited liability partnership, corporation, or any other legal entity.

2489 ~~(5)~~(10) 'Sales tax' means the taxes levied under this chapter.

2490 ~~(6)~~(11) 'Seller' means any person making sales, leases, or rentals of personal property or
 2491 services.

2492 ~~(7)~~(12) 'State' means any state of the United States, ~~and the District of Columbia, and the~~
 2493 Commonwealth of Puerto Rico.
 2494 ~~(8)~~(13) 'Use tax' means the taxes levied under this chapter."

2495 **SECTION 20.**

2496 Said title is further amended by revising Code Section 48-8-201, relating to
 2497 intergovernmental contract for distribution of municipal option water and sewer projects and
 2498 costs tax proceeds, as follows:

2499 "48-8-201.

2500 (a)(1) In any county in which the provisions of paragraph (2) of subsection (b) of Code
 2501 Section 48-8-6 will be applicable if the tax under Part 1 of Article 3 of this chapter is
 2502 imposed pursuant to subparagraph (a)(1)(D) of Code Section 48-8-111 in whole or in part
 2503 for the purpose or purposes of a water capital outlay project or projects, a sewer capital
 2504 outlay project or projects, a water and sewer capital outlay project or projects, or a
 2505 combination of such projects, the governing authority of a municipality, the majority of
 2506 which is located wholly or partially in such county, may deliver or mail a written copy
 2507 of a resolution of such municipal governing authority calling for the imposition by the
 2508 county of the tax under Part 1 of Article 3 of this chapter pursuant to subparagraph
 2509 (a)(1)(D) of Code Section 48-8-111 in whole or in part for the purpose or purposes of a
 2510 water capital outlay project or projects, a sewer capital outlay project or projects, a water
 2511 and sewer capital outlay project or projects, water and sewer projects and costs, or any
 2512 combination thereof.

2513 (2) Within ten days following the date of delivery of such resolution to the governing
 2514 authority of such county, the governing authorities of such county and municipality may
 2515 enter into an intergovernmental contract as authorized by Article IX, Section III of the
 2516 Constitution which shall specify the allocation of the proceeds of the tax between such
 2517 county and municipality according to the ratio the population of such municipality bears
 2518 to the population of such county according to the United States decennial census of 2000
 2519 or any future such census so that such municipality's share of the total net proceeds shall
 2520 be the percentage of the total population of such municipality divided by the total
 2521 population of such county. Such intergovernmental contract shall specify that the
 2522 proceeds allocated to the municipality shall only be expended for water and sewer
 2523 projects and costs.

2524 (3) Immediately following the entering into of the intergovernmental contract under
 2525 paragraph (2) of this subsection, the governing authority of such county may select the
 2526 next practicable date authorized under Code Section 21-2-540 for conducting a special
 2527 election on the question of imposing such tax under Part 1 of Article 3 of this chapter.

2528 The governing authority of such county shall notify the county election superintendent
 2529 by forwarding to the superintendent a copy of the resolution of the governing authority
 2530 of such municipality calling for the imposition of the tax in such county. Following
 2531 receipt of the resolution, the election superintendent shall issue the appropriate call for
 2532 an election for the purpose of submitting the question of the imposition of the tax to the
 2533 voters of such county in the manner specified in Code Section 48-8-111. If approved in
 2534 such referendum, the tax shall be levied and imposed as provided in this Code section and
 2535 Part 1 of Article 3 of this chapter.

2536 (b) If the governing authority of the county takes no action under paragraph (2) or (3) of
 2537 subsection (a) of this Code section, it shall provide notice thereof by resolution to the
 2538 governing authority of the municipality not later than ten days following the date of
 2539 delivery of such municipality's resolution to the county under subsection (a) of this Code
 2540 section. Upon receipt by the governing authority of the municipality of such county
 2541 resolution or if timely notice of no action is not provided by the governing authority of the
 2542 county to the governing authority of the municipality or if the county referendum is
 2543 conducted but is not approved by the voters, the governing authority of any municipality
 2544 in this state may, subject to the requirement of referendum approval and the other
 2545 requirements of this article, immediately commence proceedings to seek to impose within
 2546 the municipality a special sales and use tax for a limited period of time for the purpose of
 2547 funding water and sewer projects and costs. Any tax imposed under this article shall be at
 2548 the rate of 1 percent. Except as otherwise provided in this article, a tax imposed under this
 2549 article shall correspond to the tax imposed by Article 1 of this chapter.

2550 (c) In the event a tax imposed under this article is imposed only by the municipality:

2551 (1) No item or transaction which is not subject to taxation under Article 1 of this chapter
 2552 shall be subject to a tax imposed under this article, except that a tax imposed under this
 2553 article shall apply to:

2554 (A) Sales of motor fuels as prepaid local tax as that term is defined by paragraph (5.1)
 2555 of Code Section 48-8-2;

2556 (B) The sale of food and food ingredients and alcoholic beverages as provided for in
 2557 division (57)(D)(i) of Code Section 48-8-3;

2558 (C) The sale of natural or artificial gas used directly in the production of electricity
 2559 which is subsequently sold, notwithstanding paragraph (70) of Code Section 48-8-3;
 2560 and

2561 (D) The furnishing for value to the public of any room or rooms, lodgings, or
 2562 accommodations which is subject to taxation under Article 3 of Chapter 13 of this title;
 2563 and

2564 (2) A tax imposed under this article shall not apply to the sale of motor vehicles.

2565 (d) On and after July 1, 2007, the aggregate amount of all excise taxes imposed under
 2566 paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and use taxes shall
 2567 not exceed 14 percent."

2568

SECTION 21.

2569 Said title is further amended by revising Code Section 48-8-203, relating to imposition of the
 2570 municipal option water and sewer projects and costs tax, as follows:

2571 "48-8-203.

2572 (a)(1) If the imposition of the tax is approved by referendum, the tax shall be imposed
 2573 on the first day of the next succeeding calendar quarter which begins more than ~~70~~ 80
 2574 days after the date of the election at which the tax was approved by the voters.

2575 (2) With respect to services which are regularly billed on a monthly basis, however, the
 2576 resolution or ordinance imposing the tax shall become effective with respect to and the
 2577 tax shall apply to the first regular billing period coinciding with or following the effective
 2578 date specified in paragraph (1) of this subsection. A certified copy of the ordinance or
 2579 resolution imposing the tax shall be forwarded to the commissioner so that it will be
 2580 received within five business days after certification of the election results.

2581 (b) The tax shall cease to be imposed on the earliest of the following dates:

2582 (1) If the resolution or ordinance calling for the imposition of the tax provided for the
 2583 issuance of general obligation debt and such debt is the subject of validation proceedings,
 2584 as of the end of the first calendar quarter ending more than 80 days after the date on
 2585 which a court of competent jurisdiction enters a final order denying validation of such
 2586 debt;

2587 (2) On the final day of the maximum period of time specified for the imposition of the
 2588 tax; or

2589 (3) As of the end of the calendar quarter during which the commissioner determines that
 2590 the tax will have raised revenues sufficient to provide to the municipality net proceeds
 2591 equal to or greater than the amount specified as the maximum amount of net proceeds to
 2592 be raised by the tax.

2593 (c)(1) No municipality shall impose at any time more than a single 1 percent tax under
 2594 this article.

2595 (2) A municipality in which a tax authorized by this article is in effect may, while the tax
 2596 is in effect, adopt a resolution or ordinance calling for a reimposition of a tax as
 2597 authorized by this article upon the termination of the tax then in effect; and a referendum
 2598 may be held for this purpose while the tax is in effect. Proceedings for such reimposition
 2599 shall not be conducted more than two times; shall be in the same manner as proceedings
 2600 for the initial imposition of the tax as provided for in Code Section 48-8-202 and shall be

2601 solely within the discretion of the governing authority of the municipality without regard
 2602 to any requirement of county participation otherwise specified under subsection (a) of
 2603 Code Section 48-8-201. Such newly authorized tax shall not be imposed until the
 2604 expiration of the tax then in effect; provided, however, that in the event of emergency
 2605 conditions under which a municipality is unable to conduct a referendum so as to
 2606 continue the tax then in effect without interruption, the commissioner may, if feasible
 2607 administratively, waive the limitations of subsection (a) of this Code section to the
 2608 minimum extent necessary so as to permit the reimposition of a tax, if otherwise
 2609 approved as required under this Code section, without interruption, upon the expiration
 2610 of the tax then in effect.

2611 (3) Following the expiration of a tax under this article which has been renewed two times
 2612 under paragraph (2) of this subsection, a municipality shall not be authorized to initiate
 2613 proceedings for the reimposition of a tax under this article or to reimpose such tax."

2614 **SECTION 22.**

2615 Said title is further amended by adding a new chapter to read as follows:

2616 "CHAPTER 8A

2617 48-8A-1.

2618 (a) The sale or use of jet fuel by a qualifying airline at a qualifying airport is subject to the
 2619 excise tax imposed by this Code section.

2620 (b)(1) For the period commencing July 1, 2010, and concluding on June 30, 2011, the
 2621 sale or use of jet fuel by a qualifying airline at a qualifying airport shall be subject to an
 2622 excise tax at the rate of 2.2 percent which shall be collected at the same time and in the
 2623 same manner as sales and use tax.

2624 (2) Following the conclusion of the period specified in paragraph (1) of this subsection,
 2625 the sale or use of jet fuel by a qualifying airline at a qualifying airport shall be subject to
 2626 an excise tax at the rate of 4 percent which shall be collected at the same time and in the
 2627 same manner as sales and use tax

2628 (c) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall also
 2629 be exempt from the sales or use tax levied and imposed under Chapter 8 of this title.

2630 (d) For purposes of this Code section, a 'qualifying airline' shall mean any person which
 2631 is authorized by the Federal Aviation Administration or appropriate agency of the United
 2632 States to operate as an air carrier under an air carrier operating certificate and which
 2633 provides regularly scheduled flights for the transportation of passengers or cargo for hire.

2634 (e) For purposes of this Code section, a 'qualifying airport' shall mean any airport in the
2635 state that has had more than 750,000 takeoffs and landings during a calendar year.
2636 (f) The commissioner shall adopt rules and regulations to carry out the provisions of this
2637 Code section."

2638 **SECTION 23.**

2639 This Act shall become effective on July 1, 2010.

2640 **SECTION 24.**

2641 All laws and parts of laws in conflict with this Act are repealed.