

COMMITTEE OF CONFERENCE SUBSTITUTE TO HB 1221

A BILL TO BE ENTITLED

AN ACT

1 To amend Titles 48 and 50 of the Official Code of Georgia Annotated, relating, respectively,
 2 to revenue and taxation and state government, so as to provide for the comprehensive
 3 revision of sales and use tax provisions for streamlined sales tax purposes; to change and
 4 provide for definitions; to change and provide for exemptions; to change certain provisions
 5 regarding limitations on local sales and use taxes; to change certain provisions regarding
 6 designation of price brackets; to change certain provisions regarding tax collection from
 7 dealers; to change certain provisions regarding taxability burden of proof; to change certain
 8 provisions regarding property retention, demonstration, or display; to change certain
 9 provisions regarding reporting of sales and accounting methods; to change certain provision
 10 regarding dealer returns and estimated tax liability; to change certain provisions regarding
 11 dealer compensation; to change certain provisions regarding dealers' duty to keep records,
 12 examination, assessment, and collection; to change certain provisions regarding return
 13 allowances; to change certain provisions regarding dealer certificates of registration; to
 14 provide for comprehensive procedures, conditions, and limitations regarding implementation
 15 of streamlined sales tax purposes; to change certain provisions regarding the imposition of
 16 the joint county and municipal sales and use tax; to change certain provisions regarding
 17 imposition of the homestead option sales and use tax; to change certain provisions regarding
 18 imposition of the county special purpose local option sales tax; to change certain provisions
 19 regarding definitions relating to the Streamlined Sales and Use Tax Agreement; to provide
 20 for membership on the Streamlined Sales and Use Tax Governing Board; to change certain
 21 provisions regarding intergovernmental contracts and imposition of the municipal option
 22 water and sewer projects and costs tax; to provide for the correction of cross-references; to
 23 provide for related matters; to provide an effective date; to repeal conflicting laws; and for
 24 other purposes.

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

26 **SECTION 1.**

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

30 "48-8-2.

31 As used in this article, the term:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

83 (II) The seller's 'purchase price' or 'sales price' of the taxable tangible personal
 84 property is 50 percent or less of the total 'purchase price' or 'sales price' of the
 85 bundled tangible personal property. Sellers may not use a combination of the
 86 'purchase price' and 'sales price' of the tangible personal property when making the
 87 50 percent determination for a transaction.

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

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

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

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

97 (7) 'Conference bridging service' means an ancillary service that links two or more
 98 participants of an audio or video conference call and may include the provision of a

99 telephone number. 'Conference bridging service' shall not include the telecommunications
 100 services used to reach the conference bridge.

101 ~~(3)~~(8) 'Dealer' means every person who:

102 (A) Has sold at retail, used, consumed, distributed, or stored for use or consumption
 103 in this state tangible personal property and who cannot prove that the tax levied by this
 104 article has been paid on the sale at retail or on the use, consumption, distribution, or
 105 storage of the tangible personal property;

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

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

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

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

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

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

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

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

125 (i) Advertising or solicitation by:

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

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

128 (III) Telephone, computer, the Internet, cable, microwave, or other communication
 129 system; or

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

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

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

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

139 (I) Advertising;

140 (II) Marketing;

141 (III) Sales; or

142 (IV) Other services; and

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

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

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

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

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

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

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

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

170 printer's premises or at any place where the commercial printer performs services on
171 behalf of that person;

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

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

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

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

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

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

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

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

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

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

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

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

208 (A) Can withstand repeated use;

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

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

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

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

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

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

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

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

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

239 ~~(5)(17) 'Lease or rental' means the leasing or renting of tangible personal property and~~
 240 ~~the possession or use of the property by the lessee or renter for a consideration without~~
 241 ~~transfer of the title to the property any transfer of possession or control of tangible~~

242 personal property for a fixed or indeterminate term for consideration. A lease or rental
243 may include future options to purchase or extend. 'Lease or rental' shall not include:

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

247 (B) A transfer of possession or control of property under an agreement that requires the
248 transfer of title upon completion of required payments and payment of an option price
249 does not exceed the greater of one hundred dollars or one percent of the total required
250 payments; or

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

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

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

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

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

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

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

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

276 (22) 'Prepaid calling service' means the right to access exclusively 'telecommunications
277 services,' which must be paid for in advance and which enables the origination of calls
278 using an access number or authorization code, whether manually or electronically dialed,

279 and that is sold in predetermined units or dollars of which the number declines with use
280 in a known amount.

281 ~~(5.1)~~(23) 'Prepaid local tax' means any local sales and use tax which is levied on the sale
282 or use of motor fuel and imposed in an area consisting of less than the entire state,
283 however authorized, including, but not limited to, such taxes authorized by or pursuant
284 to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10,
285 1965 (Ga. L. 1965, p. 2243), as amended, known as the 'Metropolitan Atlanta Rapid
286 Transit Authority Act of 1965'; or by or pursuant to Article 2, 2A, 3, or 4 of this chapter.
287 Such tax is based on the same average retail sales price as set forth in subparagraph
288 (b)(2)(B) of Code Section 48-9-14. Such price shall be used to compute the prepaid sales
289 tax rate for local jurisdictions by multiplying such retail price by the applicable rate
290 imposed by the jurisdiction. The person collecting and reporting the prepaid local tax for
291 the local jurisdiction shall provide a schedule as to which jurisdiction these collections
292 relate. This determination shall be based upon the shipping papers of the conveyance that
293 delivered the motor fuel to the dealer or consumer in the local jurisdiction. A seller may
294 rely upon the representation made by the purchaser as to which jurisdiction the shipment
295 is bound and prepare shipping papers in accordance with those instructions.

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

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

305 (26) 'Prewritten computer software' means 'computer software,' including prewritten
306 upgrades, which is not designed and developed by the author or other creator to the
307 specifications of a specific purchaser. The combining of two or more 'prewritten
308 computer software' programs or prewritten portions thereof does not cause the
309 combination to be other than 'prewritten computer software.' 'Prewritten computer
310 software' includes software designed and developed by the author or other creator to the
311 specifications of a specific purchaser when it is sold to a person other than the specific
312 purchaser. Where a person modifies or enhances 'computer software' of which the person
313 is not the author or creator, the person shall be deemed to be the author or creator only
314 of such person's modifications or enhancements. 'Prewritten computer software' or a
315 prewritten portion thereof that is modified or enhanced to any degree, where such

316 modification or enhancement is designed and developed to the specifications of a specific
 317 purchaser, remains 'prewritten computer software'; provided, however, that where there
 318 is a reasonable, separately stated charge or an invoice or other statement of the price
 319 given to the purchaser for such modification or enhancement, such modification or
 320 enhancement shall not constitute 'prewritten computer software.'

321 (27) 'Prepared food' means:

322 (A) Food:

323 (i) Sold in a heated state or heated by the seller;

324 (ii) With two or more food ingredients mixed or combined by the seller for sale as
 325 a single item; or

326 (iii) Sold with eating utensils provided by the seller, including plates, knives, forks,
 327 spoons, glasses, cups, napkins, or straws. A plate does not include a container or
 328 packaging used to transport the food; and

329 (B) 'Prepared food' shall not include food:

330 (i) That is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat,
 331 poultry, and foods containing these raw animal foods requiring cooking by the
 332 consumer as in Chapter 3, part 401.11 of the United States Food and Drug
 333 Administration Food Code so as to prevent food borne illnesses;

334 (ii) Sold by a seller whose proper primary North American Industrial Classification
 335 System code is subsector 311, food manufacturing, except for industry group 3118,
 336 bakeries and tortilla manufacturing, if sold without eating utensils provided by the
 337 seller; or

338 (iii) Sold by a seller whose proper primary North American Industrial Classification
 339 System code is industry group 3121, beverage manufacturing.

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

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

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

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

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

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

350 ~~(6)~~(31) 'Retail sale' or a 'sale at retail' means: any sale, lease, or rental for any purpose
 351 other than for resale, sublease, or subrent.

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

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

364 ~~(ii) The sale of electricity used directly in the manufacture of a product shall not~~
 365 ~~constitute a retail sale for purposes of this article if the direct cost of such electricity~~
 366 ~~exceeds 50 percent of the cost of all materials, including electricity, used directly in~~
 367 ~~the product and shall be exempt from taxation under this article. Such exemption~~
 368 ~~shall be applied to manufacturers located in this state as follows:~~

369 ~~(I) For calendar years beginning on or after January 1, 1995, and prior to January~~
 370 ~~1, 1996, 20 percent of the direct cost of such electricity shall be exempt;~~

371 ~~(II) For calendar years beginning on or after January 1, 1996, and prior to January~~
 372 ~~1, 1997, 40 percent of the direct cost of such electricity shall be exempt;~~

373 ~~(III) For calendar years beginning on or after January 1, 1997, and prior to January~~
 374 ~~1, 1998, 60 percent of the direct cost of such electricity shall be exempt;~~

375 ~~(IV) For calendar years beginning on or after January 1, 1998, and prior to January~~
 376 ~~1, 1999, 80 percent of the direct cost of such electricity shall be exempt; and~~

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

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

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

387 (i) Billiard and pool rooms;

388 (ii) Bowling alleys;

389 (iii) Amusement devices;
 390 (iv) Musical devices;
 391 (v) Theaters;
 392 (vi) Opera houses;
 393 (vii) Moving picture shows;
 394 (viii) Vaudeville;
 395 (ix) Amusement parks;
 396 (x) Athletic contests including, but not limited to, wrestling matches, prize fights,
 397 boxing and wrestling exhibitions, football games, and baseball games;
 398 (xi) Skating rinks;
 399 (xii) Race tracks;
 400 (xiii) Public bathing places;
 401 (xiv) Public dance halls; and
 402 (xv) Any other place at which any exhibition, display, amusement, or entertainment
 403 is offered to the public or any other place where an admission fee is charged;
 404 ~~(E) Reserved;~~
 405 ~~(F)(D)~~ Charges made for participation in games and amusement activities; ~~or~~
 406 ~~(G)(E)~~ Sales of tangible personal property to persons for resale when there is a
 407 likelihood that the state will lose tax funds due to the difficulty of policing the business
 408 operations because:
 409 (i) Of the operation of the business;
 410 (ii) Of the very nature of the business;
 411 (iii) Of the turnover of so-called independent contractors;
 412 (iv) Of the lack of a place of business in which to display a certificate of registration;
 413 (v) Of the lack of a place of business in which to keep records;
 414 (vi) Of the lack of adequate records;
 415 (vii) The persons are minors or transients;
 416 (viii) The persons are engaged in essentially service businesses; or
 417 (ix) Of any other reasonable reason.
 418 The commissioner may promulgate rules and regulations requiring vendors of persons
 419 described in this subparagraph to collect the tax imposed by this article on the retail
 420 price of the tangible personal property. The commissioner shall refuse to issue
 421 certificates of registration and may revoke certificates of registration issued in violation
 422 of his rules and regulations;:-
 423 (F) Charges, which applied to sales of telephone service, made for local exchange
 424 telephone service, except coin operated telephone service, except as otherwise provided
 425 in subparagraph (G) of this paragraph; or

426 (G) If the price is attributable to products that are taxable and products that are
 427 nontaxable, the portion of the price attributable to the nontaxable products may be
 428 subject to tax unless the provider can identify by reasonable and verifiable standards
 429 such portion from its books and records that are kept in the regular course of business
 430 for other purposes, including, but not limited to, nontax purposes. If the price is
 431 attributable to products that are subject to tax at different tax rates, the total price may
 432 be treated as attributable to the products subject to tax at the highest tax rate unless the
 433 provider can identify by reasonable and verifiable standards the portion of the price
 434 attributable to the products subject to tax at the lower rate from the provider's books and
 435 records that are kept in the regular course of business for other purposes, including, but
 436 not limited to, nontax purposes.

437 ~~(7)~~(32) 'Retailer' means every person making sales at retail or for distribution, use,
 438 consumption, or storage for use or consumption in this state and has the same meaning
 439 as 'seller' in Code Section 48-8-161.

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

- 445 (i) The fabrication of tangible personal property for consumers who directly or
- 446 indirectly furnish the materials used in such fabrication;
- 447 (ii) The furnishing, repairing, or serving for a consideration of any tangible personal
- 448 property consumed on the premises of the person furnishing, repairing, or serving the
- 449 tangible personal property; or
- 450 (iii) A transaction by which the possession of property is transferred but the seller
- 451 retains title as security for the payment of the price.

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

457 ~~(9)(A)~~(34)(A) 'Sales price' applies to the measure subject to sales tax and means the
 458 total amount of consideration, including cash, credit, property, and services, for which
 459 personal property or services are sold, leased, or rented, valued in money, whether paid
 460 received in money or otherwise, ~~for which tangible personal property or services are~~
 461 ~~sold including, but not limited to, any services that are a part of the sale and any amount~~
 462 ~~for which credit is given to the purchaser by the seller without any deduction from the~~

463 ~~total amount for the cost of the property sold, the cost of materials used, labor or service~~
464 ~~costs, losses, or any other expenses of any kind: for the following:~~

465 (i) The seller's cost of the property sold;

466 (ii) The cost of materials used, labor, or service cost, interest, losses, all costs of
467 transportation to the seller, all taxes imposed on the seller, and any other expense of
468 the seller;

469 (iii) Charges by the seller for any services necessary to complete the sale, other than
470 delivery and installation charges;

471 (iv) Delivery charges;

472 (v) Installation charges; and

473 (vi) Credit for any trade-in, except as otherwise provided in division (vii) of
474 subparagraph (B) of this paragraph.

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

476 ~~(i) Cash discounts allowed and taken on sales~~ Discounts, including cash, term, or
477 coupons that are not reimbursed by a third party that are allowed by a seller and taken
478 by a purchaser on a sale;

479 ~~(ii) The amount charged for labor or services rendered in installing, applying,~~
480 ~~remodeling, or repairing property sold~~ Interest, financing, and carrying charges from
481 credit extended on the sale of personal property or services, if the amount is
482 separately stated on the invoice, bill of sale or similar document given to the
483 purchaser; or

484 ~~(iii) Finance charges, carrying charges, service charges, or interest from credit~~
485 ~~extended on sales of tangible personal property under conditional sale contracts or~~
486 ~~other conditional contracts providing for deferred payments of the purchase price~~ Any
487 taxes legally imposed directly on the consumer that are separately stated on the
488 invoice, bill of sale, or similar document given to the purchaser;

489 (iv) Installation charges if they are separately stated on the invoice, billing, or similar
490 document given to the purchaser;

491 (v) Charges by the seller for any services necessary to complete the sale if they are
492 separately stated on the invoice, billing, or similar document given to the purchaser;

493 (vi) Telecommunications nonrecurring charges if they are separately stated on the
494 invoice, billing, or similar document; and

495 (vii) Credit for any motor vehicle trade-in.

496 (C) 'Sales price' shall include consideration received by the seller from third parties if:

497 (i) The seller actually receives consideration from a party other than the purchaser
498 and the consideration is directly related to a price reduction or discount on the sale;

499 (ii) The seller has an obligation to pass the price reduction or discount through to the
 500 purchaser;

501 (iii) The amount of the consideration attributable to the sale is fixed and determinable
 502 by the seller at the time of the sale of the item to the purchaser; and

503 (iv) One of the following criteria is met:

504 (I) The purchaser presents a coupon, certificate, or other documentation to the seller
 505 to claim a price reduction or discount where the coupon, certificate, or
 506 documentation is authorized, distributed, or granted by a third party with the
 507 understanding that the third party will reimburse any seller to whom the coupon,
 508 certificate, or documentation is presented;

509 (II) The purchaser identifies himself or herself to the seller as a member of a group
 510 or organization entitled to a price reduction or discount; provided, however, that a
 511 'preferred customer' card that is available to any patron shall not constitute
 512 membership in such a group; or

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

516 ~~(10)~~(35) 'Storage' means any keeping or retention in this state of tangible personal
 517 property for use or consumption in this state or for any purpose other than sale at retail
 518 in the regular course of business.

519 (36) 'Streamlined sales tax agreement' means the Streamlined Sales and Use Tax
 520 Agreement under Code Section 48-8-162.

521 ~~(11)~~(37) 'Tangible personal property' means personal property ~~which may~~ that can be
 522 seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the
 523 senses. 'Tangible personal property' includes electricity, water, gas, steam, and prewritten
 524 computer software. 'Tangible personal property' does not mean stocks, bonds, notes,
 525 insurance, or other obligations or securities.

526 (38) 'Telecommunications nonrecurring charges' means an amount billed for the
 527 installation, connection, change, or initiation of 'telecommunications service' received by
 528 the customer.

529 (39) 'Telecommunications service' means the electronic transmission, conveyance, or
 530 routing of voice, data, audio, video, or any other information or signals to a point, or
 531 between or among points. The term 'telecommunications service' includes such
 532 transmission, conveyance, or routing in which computer processing applications are used
 533 to act on the form, code or protocol of the content for purposes of transmission,
 534 conveyance or routing without regard to whether such service is referred to as voice over

535 Internet protocol services or is classified by the Federal Communications Commission
 536 as enhanced or value added. 'Telecommunications service' shall not include:

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

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

542 (C) Tangible personal property;

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

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

545 (F) Internet access service;

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

552 (H) Ancillary services; or

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

555 ~~(12)~~(40) 'Use' means the exercise of any right or power over tangible personal property
 556 incident to the ownership of the property including, but not limited to, the sale at retail
 557 of the property in the regular course of business.

558 ~~(13)~~(41) 'Use tax' includes the use, consumption, distribution, and storage of tangible
 559 personal property as defined in this article.

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

564 (43) 'Voice mail service' means an ancillary service that enables the customer to store,
 565 send, or receive recorded messages. 'Voice mail service' does not include any vertical
 566 services that the customer may be required to have in order to utilize the voice mail
 567 service."

568 **SECTION 2.**

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

571 "48-8-3.

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

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

576 (2) Transactions in which tangible personal property is furnished by the United States
577 government or by a county or municipality of this state to any person who contracts to
578 perform services for the governmental entity for the installation, repair, or extension of
579 any public water, gas, or sewage system of the governmental entity when the tangible
580 personal property is installed for general distribution purposes, notwithstanding Code
581 Section 48-8-63 or any other provision of this article. No exemption is granted with
582 respect to tangible personal property installed to serve a particular property site;

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

586 (4) Sales by counties and municipalities arising out of their operation of any public
587 transit facility and sales by public transit authorities or charges by counties,
588 municipalities, or public transit authorities for the transportation of passengers upon their
589 conveyances;

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

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

593 (i) 'Public transit system primarily urban in character' shall include a transit system
594 operated by any entity which provides passenger transportation services by means of
595 motor vehicles having passenger-carrying capacity within or between standard
596 metropolitan areas and urban areas, as those terms are defined in Code Section
597 32-2-3, of this state.

598 (ii) 'Urban transit system' means a public transit system primarily urban in character
599 which is operated by a street railroad company or a motor common carrier, is subject
600 to the jurisdiction of the Public Service Commission, and whose fares and charges are
601 regulated by the Public Service Commission, or is operated pursuant to a franchise
602 contract with a municipality of this state so that its fares and charges are regulated by
603 or are subject to the approval of the municipality. An urban transit system certificate
604 shall be issued by the Public Service Commission, or by the municipality which has
605 regulatory authority, upon an affirmative showing that the applicant operates an urban
606 transit system. The certificate shall be obtained and filed with the commissioner and
607 shall continue in effect so long as the holder of such certificate qualifies as an urban

608 transit system. Any urban transit system certificate granted prior to January 1, 2002,
609 shall be deemed valid as of the date it was issued;

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

611 (6.1) Sales to any housing authority created by Article 1 of Chapter 3 of Title 8, the
612 'Housing Authorities Law';

613 (6.2) Sales to any local government authority created on or after January 1, 1980, by
614 local law, which authority has as its principal purpose or one of its principal purposes the
615 construction, ownership, or operation of a coliseum and related facilities to be used for
616 athletic contests, games, meetings, trade fairs, expositions, political conventions,
617 agricultural events, theatrical and musical performances, conventions, or other public
618 entertainments or any combination of such purposes;

619 (6.3) Sales to any agricultural commodities commission created by and regulated
620 pursuant to Chapter 8 of Title 2;

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

628 (7.05)(A) For the period commencing on July 1, 2008, and ending on June 30, 2010,
629 sales of tangible personal property to a nonprofit health center in this state which has
630 been established under the authority of and is receiving funds pursuant to the United
631 States Public Health Service Act, 42 U. S. C. Section 254b if such health clinic obtains
632 an exemption determination letter from the commissioner.

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

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

642 (7.1) Sales of tangible personal property and services to a nonprofit organization, the
643 primary function of which is the provision of services to mentally retarded persons, when

- 644 such organization is a tax exempt organization under the Internal Revenue Code and
645 obtains an exemption determination letter from the commissioner;
- 646 (7.2) Sales of tangible personal property or services to any chapter of the Georgia State
647 Society of the Daughters of the American Revolution which is tax exempt under Section
648 501(c)(3) of the Internal Revenue Code and obtains an exemption determination letter
649 from the commissioner;
- 650 (7.3) For the period commencing July 1, 2008, and ending June 30, 2010, sales of
651 tangible personal property and services to a nonprofit volunteer health clinic which
652 primarily treats indigent persons with incomes below 200 percent of the federal poverty
653 level and which property and services are used exclusively by such volunteer health clinic
654 in performing a general treatment function in this state when such volunteer health clinic
655 is a tax exempt organization under the Internal Revenue Code and obtains an exemption
656 determination letter from the commissioner;
- 657 (8) Sales of tangible personal property and services to the University System of Georgia
658 and its educational units;
- 659 (9) Sales of tangible personal property and services to be used exclusively for
660 educational purposes by those private colleges and universities in this state whose
661 academic credits are accepted as equivalents by the University System of Georgia and its
662 educational units;
- 663 (10) Sales of tangible personal property and services to be used exclusively for
664 educational purposes by those bona fide private elementary and secondary schools which
665 have been approved by the commissioner as organizations eligible to receive tax
666 deductible contributions if application for exemption is made to the department and proof
667 of the exemption is established;
- 668 (11) Sales of tangible personal property or services to, and the purchase of tangible
669 personal property or services by, any educational or cultural institute which:
- 670 (A) Is tax exempt under Section 501(c)(3) of the Internal Revenue Code;
- 671 (B) Furnishes at least 50 percent of its programs through universities and other
672 institutions of higher education in support of their educational programs;
- 673 (C) Is paid for by government funds of a foreign country; and
- 674 (D) Is an instrumentality, agency, department, or branch of a foreign government
675 operating through a permanent location in this state;
- 676 (12) School lunches sold and served to pupils and employees of public schools;
- 677 (13) Sales of ~~food to be prepared~~ prepared food and food and food ingredients consumed ~~on the~~
678 ~~premises~~ by pupils and employees of bona fide private elementary and secondary schools
679 which have been approved by the commissioner as organizations eligible to receive tax

680 deductible contributions when application for exemption is made to the department and
681 proof of the exemption is established;

682 (14) Sales of objects of art and of anthropological, archeological, geological,
683 horticultural, or zoological objects or artifacts and other similar tangible personal
684 property to or for the use by any museum or organization which is tax exempt under
685 Section 501(c)(3) of the Internal Revenue Code of such tangible personal property for
686 display or exhibition in a museum within this state when the museum is open to the
687 public and has been approved by the commissioner as an organization eligible to receive
688 tax deductible contributions;

689 (15) Sales:

690 (A) Of any religious paper in this state when the paper is owned and operated by
691 religious institutions or denominations and no part of the net profit from the operation
692 of the institution or denomination inures to the benefit of any private person;

693 (B) By religious institutions or denominations when:

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

695 (ii) The number of days upon which the fundraising activity occurs does not exceed
696 30 in any calendar year;

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

699 (iv) The gross sales or net profits from the sales are used for the purely charitable
700 purposes of:

701 (I) Relief to the aged;

702 (II) Church related youth activities;

703 (III) Religious instruction or worship; or

704 (IV) Construction or repair of church buildings or facilities;

705 (15.1) Sales of pipe organs or steeple bells to any church which is qualified as an exempt
706 religious organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as
707 amended;

708 (16) The sale or use of Holy Bibles, testaments, and similar books commonly recognized
709 as being Holy Scripture regardless of by or to whom sold;

710 (17) The sale of fuel and supplies for use or consumption aboard ships plying the high
711 seas either in intercoastal trade between ports in this state and ports in other states of the
712 United States or its possessions or in foreign commerce between ports in this state and
713 ports of foreign countries;

714 (18) Charges made for the transportation of tangible personal property including, but not
715 limited to, charges for accessorial services such as refrigeration, switching, storage, and

- 716 demurrage made in connection with interstate and intrastate transportation of the
717 property;
- 718 (19) All tangible personal property purchased outside of this state by persons who at the
719 time of purchase are not domiciled in this state but who subsequently become domiciled
720 in this state and bring the property into this state for the first time as a result of the change
721 of domicile, if the property is not brought into this state for use in a trade, business, or
722 profession;
- 723 (20) The sale of water delivered to consumers through water mains, lines, or pipes;
- 724 (21) Sales, transfers, or exchanges of tangible personal property made as a result of a
725 business reorganization when the owners, partners, or stockholders of the business being
726 reorganized maintain the same proportionate interest or share in the newly formed
727 business reorganization;
- 728 (22) Professional, insurance, or personal service transactions which involve sales as
729 inconsequential elements for which no separate charges are made;
- 730 (23) Fees or charges for services rendered by repairmen for which a separate charge is
731 made;
- 732 (24) The rental of videotape or motion picture film to any person who charges an
733 admission fee to view such film or videotape;
- 734 (25) The sale of seed; fertilizers; insecticides; fungicides; rodenticides; herbicides;
735 defoliant; soil fumigants; plant growth regulating chemicals; desiccants including, but
736 not limited to, shavings and sawdust from wood, peanut hulls, fuller's earth, straw, and
737 hay; and feed for livestock, fish, or poultry when used either directly in tilling the soil or
738 in animal, fish, or poultry husbandry;
- 739 (26) The sale to persons engaged primarily in producing farm crops for sale of
740 machinery and equipment which is used exclusively for irrigation of farm crops
741 including, but not limited to, fruit, vegetable, and nut crops;
- 742 (27) The sale of sugar used as food for honeybees kept for the commercial production
743 of honey, beeswax, and honeybees when the commissioner's prior approval is obtained;
- 744 (28) The sale of cattle, hogs, sheep, horses, poultry, or bees when sold for breeding
745 purposes;
- 746 (29) The sale of the following types of agricultural machinery:
- 747 (A) Machinery and equipment for use on a farm in the production of poultry and eggs
748 for sale;
- 749 (B) Machinery and equipment used in the hatching and breeding of poultry and the
750 breeding of livestock;
- 751 (C) Machinery and equipment for use on a farm in the production, processing, and
752 storage of fluid milk for sale;

- 753 (D) Machinery and equipment for use on a farm in the production of livestock for sale;
- 754 (E) Machinery and equipment which is used by a producer of poultry, eggs, fluid milk,
755 or livestock for sale for the purpose of harvesting farm crops to be used on the farm by
756 that producer as feed for poultry or livestock;
- 757 (F) Machinery which is used directly in tilling the soil or in animal husbandry when
758 the machinery is incorporated for the first time into a new farm unit engaged in tilling
759 the soil or in animal husbandry in this state;
- 760 (G) Machinery which is used directly in tilling the soil or in animal husbandry when
761 the machinery is incorporated as additional machinery for the first time into an existing
762 farm unit already engaged in tilling the soil or in animal husbandry in this state;
- 763 (H) Machinery which is used directly in tilling the soil or in animal husbandry when
764 the machinery is bought to replace machinery in an existing farm unit already engaged
765 in tilling the soil or in animal husbandry in this state;
- 766 (I) Rubber-tired farm tractors and attachments to the tractors which are sold to persons
767 engaged primarily in producing farm crops for sale and which are used exclusively in
768 tilling, planting, cultivating, and harvesting farm crops, and equipment used exclusively
769 in harvesting farm crops or in processing onion crops which are sold to persons
770 engaged primarily in producing farm crops for sale. For the purposes of this
771 subparagraph, the term 'farm crops' includes only those crops which are planted and
772 harvested within a 12 month period; and
- 773 (J) Pecan sprayers, pecan shakers, and other equipment used in harvesting pecans
774 which is sold to persons engaged in the growing, harvesting, and production of pecans;
- 775 (29.1) The sale or use of any off-road equipment and related attachments which are sold
776 to or used by persons engaged primarily in the growing or harvesting of timber and which
777 are used exclusively in site preparation, planting, cultivating, or harvesting timber.
778 Equipment used in harvesting shall include all off-road equipment and related
779 attachments used in every forestry procedure starting with the severing of a tree from the
780 ground until and including the point at which the tree or its parts in any form has been
781 loaded in the field in or on a truck or other vehicle for transport to the place of use. Such
782 off-road equipment shall include, but not be limited to, skidders, feller bunchers,
783 debarkers, delimiters, chip harvestors, tub-grinders, woods cutters, chippers of all types,
784 loaders of all types, dozers, and motor graders and the related attachments;
- 785 (30) The sale of a vehicle to a service-connected disabled veteran when the veteran
786 received a grant from the United States Department of Veterans Affairs to purchase and
787 specially adapt the vehicle to his disability;
- 788 (31) The sale of tangible personal property manufactured or assembled in this state for
789 export when delivery is taken outside this state;

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

796 (33)(A) The sale of aircraft, watercraft, railroad locomotives and rolling stock, motor
797 vehicles, and major components of each, which will be used principally to cross the
798 borders of this state in the service of transporting passengers or cargo by common
799 carriers and by carriers who hold common carrier and contract carrier authority in
800 interstate or foreign commerce under authority granted by the United States
801 government. Replacement parts installed by carriers in such aircraft, watercraft,
802 railroad locomotives and rolling stock, and motor vehicles which become an integral
803 part of the craft, equipment, or vehicle shall also be exempt from all taxes under this
804 article;

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

811 (33.1)(A) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport,
812 to the extent provided in subparagraphs (B), (C), and (D) of this paragraph.

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

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

820 (D) Except as provided for in subparagraph (C) of this paragraph, this exemption shall
821 not apply to any other local sales and use tax levied or imposed at anytime in any area
822 consisting of less than the entire state, however authorized, including, but not limited
823 to, such taxes authorized by or pursuant to Section 25 of an Act approved March 10,
824 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit
825 Authority Act of 1965,' or such taxes as authorized by or pursuant to Part 2 of Article
826 3 or Article 2, 2A, or 4 of this chapter.

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

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

834 (G) The commissioner shall adopt rules and regulations to carry out the provisions of
835 this paragraph.

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

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

839 (A) Machinery or equipment which is necessary and integral to the manufacture of
840 tangible personal property when the machinery or equipment is bought to replace or
841 upgrade machinery or equipment in a manufacturing plant presently existing in this
842 state and machinery or equipment components which are purchased to upgrade
843 machinery or equipment which is necessary and integral to the manufacture of tangible
844 personal property in a manufacturing plant;

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

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

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

862 (34.1)(A) The sale of primary material handling equipment which is used for the
863 handling and movement of tangible personal property and racking systems used for the

864 conveyance and storage of tangible personal property in a warehouse or distribution
865 facility located in this state when such equipment is either part of an expansion worth
866 \$5 million or more of an existing warehouse or distribution facility or part of the
867 construction of a new warehouse or distribution facility where the total value of all real
868 and personal property purchased or acquired by the taxpayer for use in the warehouse
869 or distribution facility is worth \$5 million or more.

870 (B) In order to qualify for the exemption provided for in subparagraph (A) of this
871 paragraph, a warehouse or distribution facility may not make retail sales from such
872 facility to the general public if the total of the retail sales equals or exceeds 15 percent
873 of the total revenues of the warehouse or distribution facility. If retail sales are made
874 to the general public by a warehouse or distribution facility and at any time the total of
875 the retail sales equals or exceeds 15 percent of the total revenues of the facility, the
876 taxpayer will be disqualified from receiving such exemption as of the date such 15
877 percent limitation is met or exceeded. The taxpayer may be required to repay any tax
878 benefits received under subparagraph (A) of this paragraph on or after that date plus
879 penalty and interest as may be allowed by law;

880 (34.2)(A) The sale or use of machinery or equipment, or both, which is used in the
881 remanufacture of aircraft engines or aircraft engine parts or components in a
882 remanufacturing facility located in this state. For purposes of this paragraph,
883 'remanufacture of aircraft engines or aircraft engine parts or components' means the
884 substantial overhauling or rebuilding of aircraft engines or aircraft engine parts or
885 components.

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

891 (34.3)(A) The sale or use of repair or replacement parts, machinery clothing or
892 replacement machinery clothing, molds or replacement molds, dies or replacement dies,
893 waxes, and tooling or replacement tooling for machinery which is necessary and
894 integral to the manufacture of tangible personal property in a manufacturing plant
895 presently existing in this state.

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

898 (34.4)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary,
899 sales of tangible personal property to, or used in or for the construction of, an
900 alternative fuel facility primarily dedicated to the production and processing of ethanol,

901 biodiesel, butanol, and their by-products, when such fuels are derived from biomass
902 materials such as agricultural products, or from animal fats, or the wastes of such
903 products or fats.

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

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

908 (ii) 'Used in or for the construction' means any tangible personal property
909 incorporated into a new alternative fuel facility that loses its character of tangible
910 personal property. Such term does not mean tangible personal property that is
911 temporary in nature, leased or rented, tools, or other items not incorporated into the
912 facility.

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

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

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

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

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

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

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

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

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

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

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

945 (B) Any person making a sale of machinery and equipment or repair, replacement, or
946 component parts for such machinery and equipment for the purposes specified in this
947 paragraph shall collect the tax imposed on the sale by this article unless the purchaser
948 furnishes him with a certificate issued by the commissioner certifying that the purchaser
949 is entitled to purchase the machinery and equipment or repair, replacement, or
950 component parts for such machinery and equipment without paying the tax;

951 (36.1)(A) The sale of machinery and equipment which is incorporated into any
952 qualified water conservation facility and used for water conservation.

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

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

965 (ii) 'Water conservation' means a minimum 10 percent reduction resulting in the
966 relinquishment of transfer of annual permitted water usage from existing
967 ground-water sources due to increased manufacturing process efficiencies or
968 recycling of manufacturing process water which results in reduced ground-water
969 usage, or a change from a ground-water source to a surface-water source or an
970 alternate source.

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

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

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

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

990 (39.1) The use of cargo containers and their related chassis which are owned by or leased
991 to persons engaged in the international shipment of cargo by ocean-going vessels which
992 containers and chassis are directly used for the storage and shipment of tangible personal
993 property in or through this state in intrastate or interstate commerce;

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

996 (41)(A) Sales of tangible personal property and services to a child-caring institution
997 as defined in paragraph (1) of Code Section 49-5-3, as amended; a child-placing agency
998 as defined in paragraph (2) of Code Section 49-5-3, as amended; or a maternity home
999 as defined in paragraph (14) of Code Section 49-5-3, as amended, when such
1000 institution, agency, or home is engaged primarily in providing child services and is a
1001 nonprofit, tax-exempt organization under Section 501(c)(3) of the Internal Revenue
1002 Code and obtains an exemption determination letter from the commissioner; and

1003 (B) Sales by an institution, agency, or home as described in subparagraph (A) of this
1004 paragraph when:

1005 (i) The sale results from a specific charitable fundraising activity;

1006 (ii) The number of days upon which the fundraising activity occurs does not exceed
1007 30 in any calendar year;

1008 (iii) No part of the gross sales or net profits from the sales inures to the benefit of any
1009 private person; and

1010 (iv) The gross sales or net profits from the sales are used purely for charitable
1011 purposes in providing child services;

- 1012 (42) The use by, or lease or rental of tangible personal property to, a person who acquires
1013 the property from another person where both persons are under 100 percent common
1014 ownership and where the person who furnishes, leases, or rents the property has:
- 1015 (A) Previously paid sales or use tax on the property; or
 - 1016 (B) Been credited under Code Section 48-8-42 with paying a sales or use tax on the
1017 property so furnished, leased, or rented, and the tax credited is based upon the fair
1018 rental or lease value of the property;
- 1019 (43) Gross revenues generated from all bona fide coin operated amusement machines
1020 which vend or dispense music or are operated for skill, amusement, entertainment, or
1021 pleasure which are in commercial use and are provided to the public for play which will
1022 require a permit fee under Chapter 17 of this title;
- 1023 (44) Sales of motor vehicles, as defined in Code Section 48-5-440, to nonresident
1024 purchasers for immediate transportation to and use in another state in which the vehicles
1025 are required to be registered, provided the seller obtains from the purchaser and retains
1026 an affidavit stating the name and address of the purchaser, the state in which the vehicle
1027 will be registered and operated, the make, model, and serial number of the vehicle, and
1028 such other information as the commissioner may require;
- 1029 (45) The sale, use, storage, or consumption of paper stock which is manufactured in this
1030 state into catalogs intended to be delivered outside this state for use outside this state;
- 1031 (46) Sales to blood banks having a nonprofit status pursuant to Section 501(c)(3) of the
1032 Internal Revenue Code;
- 1033 (47)(A)(i) The sale or use of controlled substances and ~~dangerous~~ drugs which are
1034 lawfully dispensed by prescription for the treatment of natural persons, and sales of
1035 prescription eyeglasses and contact lenses including, without limitation, prescription
1036 contact lenses distributed by the manufacturer to licensed dispensers as free samples
1037 not intended for resale and labeled as such.
 - 1038 (ii) The sale or use of those controlled substances and ~~dangerous~~ drugs lawfully
1039 dispensable by prescription for the treatment of natural persons which are dispensed
1040 or distributed without charge to physicians, dentists, clinics, hospitals, or any other
1041 person or entity located in Georgia by a pharmaceutical manufacturer or distributor;
1042 and the use of controlled substances, ~~dangerous~~ drugs, new animal drugs, and medical
1043 devices lawfully dispensed or distributed without charge solely for the purposes of a
1044 clinical trial approved by either the United States Food and Drug Administration or
1045 by an institutional review board.
- 1046 (B) For purposes of this paragraph, the term:
- 1047 (i) 'Controlled substance' means the same as provided in Code Section 16-13-1.

- 1048 (ii) ~~'Dangerous drug'~~ 'Drug' means the same as provided in Code Section ~~16-13-1~~
 1049 48-8-2.
- 1050 (iii) 'Institutional review board' means an institutional review board as provided in
 1051 21 C.F.R. Section 56.
- 1052 (iv) 'Medical device' means a device as defined in subsection (h) of 21 U.S.C.
 1053 Section 321.
- 1054 (v) 'New animal drug' means a new animal drug as defined in subsection (v) of 21
 1055 U.S.C. Section 321.
- 1056 (C) The commissioner is authorized to prescribe forms and promulgate rules and
 1057 regulations deemed necessary in order to administer and effectuate this paragraph;
- 1058 (48) Sales to licensed commercial fishermen of bait for taking crabs and the use by
 1059 licensed commercial fishermen of bait for taking crabs;
- 1060 (49) Sales of liquefied petroleum gas or other fuel used in a structure in which broilers,
 1061 pullets, or other poultry are raised;
- 1062 (49.1)(A) From July 1, 2008, until June 30, 2010, the sale or use of liquefied petroleum
 1063 gas or other fuel used in a structure in which swine are raised.
- 1064 (B)(i) For the purposes of this paragraph, the term 'local sales and use tax' shall mean
 1065 any sales tax, use tax, or local sales and use tax which is levied and imposed in an
 1066 area consisting of less than the entire state, however authorized, including, but not
 1067 limited to, such taxes authorized by or pursuant to constitutional amendment; by or
 1068 pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as
 1069 amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or
 1070 pursuant to Article 2 of this chapter; by or pursuant to Article 2A of this chapter; by
 1071 or pursuant to Part 1 of Article 3 of this chapter; by or pursuant to Part 2 of Article 3
 1072 of this chapter; and by or pursuant to Article 4 of this chapter.
- 1073 (ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply
 1074 to any local sales and use tax levied or imposed at any time;
- 1075 (50) Sales of blood measuring devices, other monitoring equipment, or insulin delivery
 1076 systems used exclusively by diabetics and sales of insulin, insulin syringes, and blood
 1077 glucose level measuring strips dispensed without a prescription;
- 1078 (51) Sales of oxygen prescribed by a licensed physician;
- 1079 (52) ~~The sale or use of hearing aids~~ Reserved;
- 1080 (53) Sales transactions for which food stamps or WIC coupons are used as the medium
 1081 of exchange;
- 1082 (54) The sale or use of any durable medical equipment or prosthetic device prescribed
 1083 by a physician;
- 1084 (55) The sale of lottery tickets authorized by Chapter 27 of Title 50;

1085 (56) Sales by any parent-teacher organization qualified as a tax exempt organization
1086 under Section 501(c)(3) of the Internal Revenue Code;

1087 ~~(57)(A) The sale for off-premises human consumption or use of eligible foods and~~
1088 ~~beverages of food and food ingredients, to the extent provided in subparagraph (B) of~~
1089 ~~this paragraph.~~

1090 ~~(B) A transaction described in subparagraph (A) of this paragraph shall be exempt~~
1091 ~~from sales and use tax only if occurring on or after October 1, 1996, and only to the~~
1092 ~~extent set forth in divisions (i) through (iii) of this subparagraph as follows:~~

1093 ~~(i) For a transaction occurring during the period from October 1, 1996, through~~
1094 ~~September 30, 1997, to the extent of 50 percent of that amount on which, but for this~~
1095 ~~paragraph, sales and use tax would be levied or imposed;~~

1096 ~~(ii) For a transaction occurring during the period from October 1, 1997, through~~
1097 ~~September 30, 1998, to the extent of 75 percent of that amount on which, but for this~~
1098 ~~paragraph, sales and use tax would be levied or imposed; and~~

1099 ~~(iii) For a transaction occurring on or after October 1, 1998, to the extent of 100~~
1100 ~~percent of that amount on which, but for this paragraph, sales and use tax would be~~
1101 ~~levied or imposed.~~

1102 ~~(C)(B) For the purposes of this paragraph, 'eligible food and beverages' means any~~
1103 ~~food as defined in Section 3 of the federal Food Stamp Act of 1977 (P.L. 95-113), as~~
1104 ~~amended, 7 U.S.C.A. 2012(g), as such Act existed on January 1, 1996, except that~~
1105 ~~eligible food and beverages shall not include seeds or plants to grow food and shall not~~
1106 ~~include food or drink dispensed by or through vending machines or related operations~~
1107 ~~'food and food ingredients' shall not include prepared food, alcoholic beverages, or~~
1108 ~~tobacco.~~

1109 ~~(D)(i)(C)(i) The exemption provided for in this paragraph shall not apply to any local~~
1110 ~~sales and use tax levied or imposed at any time by or pursuant to Article 3 of this~~
1111 ~~chapter.~~

1112 ~~(ii) Except as otherwise provided in division (i) of this subparagraph, the exemption~~
1113 ~~provided for in this paragraph shall not apply to any local sales and use tax which is~~
1114 ~~effective before October 1, 1996, notwithstanding any provisions to the contrary in~~
1115 ~~the law authorizing or imposing such tax.~~

1116 ~~(iii) Except as otherwise provided in divisions (i) and (iv) of this subparagraph, the~~
1117 ~~exemption provided for in this paragraph shall apply with respect to any local sales~~
1118 ~~and use tax which becomes effective on or after October 1, 1996, but such exemption~~
1119 ~~shall apply only as to transactions occurring on or after October 1, 1998,~~
1120 ~~notwithstanding any provision to the contrary in the law authorizing or imposing such~~
1121 ~~tax.~~

- 1122 ~~(iv) The exemption provided for in this paragraph shall apply to any local sales and~~
 1123 ~~use tax levied or imposed at any time by or pursuant to Article 2A of this chapter.~~
- 1124 ~~(v)(ii) For the purposes of this subparagraph, the term 'local sales and use tax' shall~~
 1125 ~~mean any sales tax, use tax, or local sales and use tax which is levied and imposed in~~
 1126 ~~an area consisting of less than the entire state, however authorized, including, but not~~
 1127 ~~limited to, such taxes authorized by or pursuant to constitutional amendment; by or~~
 1128 ~~pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as~~
 1129 ~~amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or~~
 1130 ~~pursuant to Article 2 of this chapter; by or pursuant to Article 2A of this chapter; or~~
 1131 ~~by or pursuant to Article 3 any article of this chapter.~~
- 1132 ~~(E)(D) The commissioner shall adopt rules and regulations to carry out the provisions~~
 1133 ~~of this paragraph;~~
- 1134 ~~(57.1)(A) From July 1, 2006, until June 30, 2010, sales of eligible food and beverages~~
 1135 ~~food ingredients to a qualified food bank.~~
- 1136 ~~(B) As used in this paragraph, the term:~~
- 1137 ~~(i) 'Eligible food and beverages' means any food as defined in Section 3 of the federal~~
 1138 ~~Food Stamp Act of 1977 (P.L. 95-113), as amended, 7 U.S.C.A. 2012(g), as such Act~~
 1139 ~~existed on January 1, 1996, whether or not for off-premises consumption.~~
- 1140 ~~(ii) 'Qualified qualified food bank' means any food bank which is exempt from~~
 1141 ~~taxation under Section 501(c)(3) of the Internal Revenue Code and which is operated~~
 1142 ~~primarily for the purpose of providing hunger relief to low income persons residing~~
 1143 ~~in this state.~~
- 1144 ~~(C) Any person making a sale of eligible food and beverages for the purpose specified~~
 1145 ~~in this paragraph shall collect the tax imposed on this sale unless the purchaser~~
 1146 ~~furnishes such person with an exemption determination letter issued by the~~
 1147 ~~commissioner certifying that the purchaser is entitled to purchase the eligible food and~~
 1148 ~~beverages without paying the tax.~~
- 1149 ~~(D) The commissioner is authorized to promulgate rules and regulations deemed~~
 1150 ~~necessary in order to administer and effectuate this paragraph;~~
- 1151 ~~(57.2)(A) For the period commencing July 1, 2007, and ending on June 30, 2011, the~~
 1152 ~~use of prepared food and beverages which are is donated to a qualified nonprofit agency~~
 1153 ~~and which are used for hunger relief purposes.~~
- 1154 ~~(B) As used in this paragraph, the term 'qualified nonprofit agency' means any entity~~
 1155 ~~which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code~~
 1156 ~~and which provides hunger relief.~~
- 1157 ~~(C) Any person making a donation of prepared food and beverages for the purpose~~
 1158 ~~specified in this paragraph shall remit the tax imposed thereon unless the person making~~

1159 use of such prepared food and beverages furnishes the person making the donation with
 1160 an exemption determination letter issued by the commissioner certifying that the person
 1161 making use of such food and beverages is entitled to use the prepared food and
 1162 beverages without paying the tax.

1163 ~~(D)~~ The commissioner is authorized to promulgate rules and regulations deemed
 1164 necessary in order to administer and effectuate this paragraph;

1165 (57.3)(A) For the period commencing July 1, 2007, and ending on June 30, 2011, the
 1166 use of prepared food and beverages which are is donated following a natural disaster
 1167 and which are used for disaster relief purposes.

1168 (B) The commissioner is authorized to promulgate rules and regulations deemed
 1169 necessary in order to administer and effectuate this paragraph;

1170 (58)(A) Notwithstanding any provisions of this chapter to the contrary, sales to or use
 1171 by a government contractor of overhead materials in performance of a contract with the
 1172 United States government to which title passes immediately to the government under
 1173 the terms of the contract.

1174 (B) As used in this paragraph, the term:

1175 (i) 'Government contractor' means a person who enters into a contract with the United
 1176 States Department of Defense or the National Aeronautics and Space Administration
 1177 to sell services or tangible personal property, or both, for the purpose of the national
 1178 defense.

1179 (ii) 'Overhead materials' means any tangible personal property used or consumed in
 1180 the performance of a contract between the United States Department of Defense or
 1181 the National Aeronautics and Space Administration and a government contractor, the
 1182 cost of which is charged to an expense account and allocated to various United States
 1183 government contracts based upon generally accepted accounting principles, and
 1184 consistent with government contract accounting standards. The term does not include
 1185 tangible personal property which is incorporated into real property construction.

1186 (C) This paragraph shall stand repealed on January 1, 2011;

1187 ~~(59)(A) For purposes of this paragraph, 'eligible food and beverages' means any food~~
 1188 ~~as defined in Section 3 of the federal Food Stamp Act of 1977 (P.L. 95-113), as~~
 1189 ~~amended, 7 U.S.C.A. 2012(g), as such Act existed on January 1, 1996, whether or not~~
 1190 ~~for off premises consumption.~~

1191 ~~(B)~~(A) Sales of ~~eligible food and beverages~~ food and food ingredients to and by
 1192 member councils of the Girl Scouts of the U.S.A. in connection with fundraising
 1193 activities of any such council.

- 1194 ~~(C)~~(B) Sales of ~~eligible food and beverages~~ food and food ingredients to and by
 1195 member councils of the Boy Scouts of America in connection with fundraising
 1196 activities of any such council;
- 1197 (60) The sale of machinery and equipment which is incorporated into any
 1198 telecommunications manufacturing facility and used for the primary purpose of
 1199 improving air quality in advanced technology clean rooms of Class 100,000 or less,
 1200 provided such clean rooms are used directly in the manufacture of tangible personal
 1201 property;
- 1202 (61) Printed advertising inserts or advertising supplements distributed in this state in or
 1203 as part of any newspaper for resale;
- 1204 (62) The sale of grass sod of all kinds and character when such sod is in the original state
 1205 of production or condition of preparation for sale. The exemption provided for by this
 1206 paragraph shall only apply to a sale made by the sod producer, a member of such
 1207 producer's family, or an employee of such producer. The exemption provided for by this
 1208 paragraph shall not apply to sales of grass sod by a person engaged in the business of
 1209 selling plants, seedlings, nursery stock, or floral products;
- 1210 (63) The sale or use of funeral merchandise, outer burial containers, and cemetery
 1211 markers as defined in Code Section 43-18-1, which are purchased with funds received
 1212 from the Georgia Crime Victims Emergency Fund under Chapter 15 of Title 17;
- 1213 (64) The sale of electricity or other fuel for the operation of an irrigation system which
 1214 is used on a farm exclusively for the irrigation of crops;
- 1215 (65)(A) Sales of dyed diesel fuel exclusively used to operate vessels or boats in the
 1216 commercial fishing trade by licensed commercial fishermen.
- 1217 (B) Any person making a sale of dyed diesel fuel for the purposes specified in this
 1218 paragraph shall collect the tax imposed on the sale by this article unless the purchaser
 1219 furnishes such person with a certificate issued by the commissioner certifying that the
 1220 purchaser is entitled to purchase the dyed diesel fuel without paying the tax;
- 1221 (66) Sales of gold, silver, or platinum bullion or any combination of such bullion,
 1222 provided that the dealer maintains proper documentation, as specified by rule or
 1223 regulation to be promulgated by the department, to identify each sale or portion of a sale
 1224 which is exempt under this paragraph;
- 1225 (67) Sales of coins or currency or a combination of coins and currency, provided that the
 1226 dealer maintains proper documentation, as specified by rule or regulation to be
 1227 promulgated by the department, to identify each sale or portion of a sale which is exempt
 1228 under this paragraph;
- 1229 (68)(A) The sale or lease of computer equipment to be incorporated into a facility or
 1230 facilities in this state to any high-technology company classified under North American

1231 Industrial Classification System code 51121, 51331, 51333, 51334, 51421, 52232,
1232 54133, 54171, 54172, 334413, 334611, 513321, 513322, 514191, 541511, 541512,
1233 541513, or 541519 where such sale of computer equipment for any calendar year
1234 exceeds \$15 million or, in the event of a lease of such computer equipment, the fair
1235 market value of such leased computer equipment for any calendar year exceeds \$15
1236 million.

1237 (B) Any person making a sale or lease of computer equipment to a high-technology
1238 company as specified in subparagraph (A) of this paragraph shall collect the tax
1239 imposed on the sale by this article unless the purchaser furnishes such seller with a
1240 certificate issued by the commissioner certifying that the purchaser is entitled to
1241 purchase the computer equipment without paying the tax. As a condition precedent to
1242 the issuance of the certificate, the commissioner, at such commissioner's discretion,
1243 may require a good and valid bond with a surety company authorized to do business in
1244 this state as surety or may require legal securities, in an amount fixed by the
1245 commissioner, conditioned upon payment by the purchaser of all taxes due under this
1246 article in the event it should be determined that the sale fails to meet the requirements
1247 of this subparagraph.

1248 (C)(i) As used in this paragraph, the term 'computer equipment' means any individual
1249 computer or organized assembly of hardware or software, such as a server farm,
1250 mainframe or midrange computer, mainframe driven high-speed print and mailing
1251 devices, and workstations connected to those devices via high bandwidth connectivity
1252 such as a local area network, wide area network, or any other data transport
1253 technology which performs one of the following functions: storage or management
1254 of production data, hosting of production applications, hosting of application systems
1255 development activities, or hosting of applications systems testing.

1256 (ii) The term shall not include:

- 1257 (I) Telephone central office equipment or other voice data transport technology; or
1258 (II) Equipment with imbedded computer hardware or software which is primarily
1259 used for training, product testing, or in a manufacturing process.

1260 (D) Any corporation, partnership, limited liability company, or any other similar entity
1261 which qualifies for the exemption and is affiliated in any manner with a nonqualified
1262 corporation, partnership, limited liability company, or any other similar entity must
1263 conduct at least a majority of its business with entities with which it has no affiliation;

1264 (69) The sale of machinery, equipment, and materials incorporated into and used in the
1265 construction or operation of a clean room of Class 100 or less in this state, not to include
1266 the building or any permanent, nonremovable component of the building that houses such

1267 clean room, provided that such clean room is used directly in the manufacture of tangible
1268 personal property in this state;

1269 (70)(A) For the purposes of this paragraph, the term 'local sales and use tax' shall mean
1270 any sales tax, use tax, or local sales and use tax which is levied and imposed in an area
1271 consisting of less than the entire state, however authorized, including, but not limited
1272 to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant
1273 to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended,
1274 the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or pursuant to
1275 Article 2 of this chapter; by or pursuant to Article 2A of this chapter; by or pursuant to
1276 Part 1 of Article 3 of this chapter; or by or pursuant to Part 2 of Article 3 of this chapter.

1277 (B) The sale of natural or artificial gas used directly in the production of electricity
1278 which is subsequently sold.

1279 (C) The exemption provided for in subparagraph (B) of this paragraph shall not apply
1280 to any local sales and use tax levied or imposed at any time.

1281 (D) The commissioner shall adopt rules and regulations to carry out the provisions of
1282 this paragraph;

1283 (70.1)(A) For the period commencing July 1, 2008, and concluding on December 31,
1284 2010, the sale of natural or artificial gas, No. 2 fuel oil, No. 6 fuel oil, propane,
1285 petroleum coke, and coal used directly or indirectly in the manufacture or processing,
1286 in a manufacturing plant located in this state, of tangible personal property primarily
1287 for resale, and the fuel cost recovery component of retail electric rates used directly or
1288 indirectly in the manufacture or processing, in a manufacturing plant located in this
1289 state, of tangible personal property primarily for resale.

1290 (B) The exemption provided for in subparagraph (A) of this paragraph shall not apply
1291 to the first \$7.60 per decatherm of the sales price or cost price of natural or artificial
1292 gas, the first \$2.48 per gallon of the sales price or cost price of No. 2 fuel oil, the first
1293 \$1.72 per gallon of the sales price or cost price of No. 6 fuel oil, the first \$1.44 per
1294 gallon of the sales price or cost price of propane, the first \$57.90 per ton of petroleum
1295 coke, the first \$57.90 per ton of coal, or the first 3.44¢ per kilowatt hour of the fuel cost
1296 recovery component of retail electricity rates whether such fuel recovery charges are
1297 charged separately or are embedded in such electric rates. Dealers with such embedded
1298 rates may exempt from the electricity sales upon which the sales tax is calculated no
1299 more than the amount, if any, by which the fuel cost recovery charge approved by the
1300 Georgia Public Service Commission for transmission customers of electric utilities
1301 regulated by the Georgia Public Service Commission exceeds 3.44¢ per kilowatt hour.

1302 (C)(i) For the purposes of this paragraph, the term 'local sales and use tax' shall mean
1303 any sales tax, use tax, or local sales and use tax which is levied and imposed in an

1304 area consisting of less than the entire state, however authorized, including, but not
 1305 limited to, such taxes authorized by or pursuant to constitutional amendment; by or
 1306 pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as
 1307 amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; or by or
 1308 pursuant to Article 2, 2A, 3, or 4 of this chapter.

1309 (ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply
 1310 to any local sales and use tax levied or imposed at any time.

1311 (D) Any person making a sale of items qualifying for exemption under
 1312 subparagraph (A) of this paragraph shall be relieved of the burden of proving such
 1313 qualification if the person receives in good faith a certificate from the purchaser
 1314 certifying that the purchase is exempt under this paragraph.

1315 (E) Any person who qualifies for this exemption shall notify and certify to the person
 1316 making the qualified sale that this exemption is applicable to the sale;

1317 (71) Sales to or by any nonprofit organization which has as its primary purpose the
 1318 raising of funds for books, materials, and programs for public libraries if such
 1319 organization qualifies as a tax-exempt organization under Section 501(c)(3) of the
 1320 Internal Revenue Code;

1321 (72) ~~The sale or use, to or by permanently disabled persons, of wheelchairs and any~~
 1322 ~~accompanying equipment, including seating equipment, all of which is manually or~~
 1323 ~~mechanically attached or adapted to such wheelchairs~~ of all mobility enhancing
 1324 equipment prescribed by a physician;

1325 (73)(A) The sale or lease of production equipment or production services for use in this
 1326 state by a certified film producer or certified film production company for qualified
 1327 production activities.

1328 (B) As used in this paragraph, the term:

1329 (i) 'Film producer' means any person engaged in the business of organizing and
 1330 supervising qualified production activities.

1331 (ii) 'Film production company' means any company that employs one or more film
 1332 producers and whose goal is to engage in film production activity.

1333 (iii) 'Production equipment' means items purchased or leased for use exclusively in
 1334 qualified production activities in Georgia, including, but not limited to, cameras,
 1335 camera supplies, camera accessories, lighting equipment, cables, wires, generators,
 1336 motion picture film and videotape stock, cranes, booms, dollies, and teleprompters.

1337 (iv) 'Production services' means services purchased for use exclusively in qualified
 1338 production activities in Georgia, including, but not limited to, digital or tape editing,
 1339 film processing, transfers of film to tape or digital format, sound mixing, computer
 1340 graphics services, special effects services, animation services, and script production.

1341 (v) 'Qualified production activities' means the production or post production of film
 1342 or video projects such as feature films, series, pilots, movies for television,
 1343 commercials, music videos, or sound recordings used in feature films, series, pilots,
 1344 or movies for television, for which the film producer or film production company will
 1345 be compensated and which are intended for nation-wide commercial distribution.

1346 (C) Any person making a sale of production equipment or production services to a film
 1347 producer or film production company as specified in this paragraph shall collect the tax
 1348 imposed on the sale by this article unless the purchaser furnishes such seller with a
 1349 certificate issued by the commissioner certifying that the purchaser is entitled to
 1350 purchase the production equipment or production services without paying the tax. As
 1351 a condition precedent to the issuance of the certificate, film producers and film
 1352 production companies shall submit an application to the commissioner for designation
 1353 as a certified film producer or certified film production company. Such application
 1354 shall not be valid without prior written approval by the Georgia Film and Videotape
 1355 Office of the Department of Economic Development;

1356 (74)(A)(i) Except as otherwise provided in divisions (ii) and (iii) of this
 1357 subparagraph, the sale or use of digital broadcast equipment sold to, leased to, or used
 1358 by a federally licensed commercial or public radio or television broadcast station, a
 1359 cable network, or a cable distributor that enables a radio or television station, cable
 1360 network, or cable distributor to originate and broadcast or transmit or to receive and
 1361 broadcast or transmit digital signals, including, but not limited to, digital broadcast
 1362 equipment required by the Federal Communications Commission.

1363 (ii) For commercial or public television broadcasters and cable distributors, such
 1364 equipment shall be limited to antennas, transmission lines, towers, digital transmitters,
 1365 studio to transmitter links, digital routing switchers, character generators, Advanced
 1366 Television Systems Committee video encoders and multiplexers, monitoring facilities,
 1367 cameras, terminal equipment, tape recorders, and file servers.

1368 (iii) For radio broadcasters, such equipment shall be limited to transmitters, digital
 1369 audio processors, and diskettes.

1370 (B) As used in this paragraph, the term:

1371 (i) 'Digital broadcast equipment' means equipment purchased, leased, or used for the
 1372 origination or integration of program materials for broadcast over the airwaves or
 1373 transmission by cable, satellite, or fiber optic line which uses or produces an
 1374 electronic signal where the signal carries data generated, stored, and processed as
 1375 strings of binary data. Data transmitted or stored as digital data consists of strings of
 1376 positive or nonpositive elements of a transmission expressed in strings of 0's and 1's
 1377 which a computer or processor can reconstruct as an electronic signal.

1378 (ii) 'Federally licensed commercial or public radio or television broadcast station'
1379 means any entity or enterprise, either commercial or noncommercial, which operates
1380 under a license granted by the Federal Communications Commission for the purpose
1381 of free distribution of audio and video services when the distribution occurs by means
1382 of transmission over the public airwaves.

1383 (C) The exemption provided under this paragraph shall not apply to any of the
1384 following:

1385 (i) Repair or replacement parts purchased for the equipment described in this
1386 paragraph;

1387 (ii) Equipment purchased to replace equipment for which an exemption was
1388 previously claimed and taken under this paragraph;

1389 (iii) Any equipment purchased after a television station, cable network, or cable
1390 distributor has ceased analog broadcasting, or purchased after November 1, 2004,
1391 whichever occurs first; or

1392 (iv) Any equipment purchased after a radio station has ceased analog broadcasting,
1393 or purchased after November 1, 2008, whichever occurs first.

1394 (D) Any person making a sale of digital broadcasting equipment to a federally licensed
1395 commercial or public radio or television broadcast station, cable network, or cable
1396 distributor shall collect the tax imposed on the sale by this article unless the purchaser
1397 furnishes a certificate issued by the commissioner certifying that the purchaser is
1398 entitled to purchase the equipment without paying the tax;

1399 (75)(A) The sale of any covered item. The exemption provided by this paragraph shall
1400 apply only to sales occurring during a period commencing at 12:01 A.M. on July 30,
1401 2009, and concluding at 12:00 Midnight on August 2, 2009.

1402 (B) As used in this paragraph, the term 'covered item' shall mean:

1403 (i) Articles of clothing and footwear with a sales price of \$100.00 or less per article
1404 of clothing or pair of footwear, excluding accessories such as jewelry, handbags,
1405 umbrellas, eyewear, watches, and watchbands;

1406 (ii) A single purchase, with a sales price \$1,500.00 or less, of personal computers and
1407 personal computer related accessories purchased for noncommercial home or personal
1408 use, including personal computer base units and keyboards, personal digital assistants,
1409 handheld computers, monitors, other peripheral devices, modems for Internet and
1410 network access, and nonrecreational software, whether or not they are to be utilized
1411 in association with the personal computer base unit. Computer and computer related
1412 accessories shall not include furniture and any systems, devices, software, or
1413 peripherals designed or intended primarily for recreational use; and

1414 (iii) Noncommercial purchases of general school supplies to be utilized in the
1415 classroom or in classroom related activities, such as homework, up to a sales price of
1416 \$20.00 per item including pens, pencils, notebooks, paper, book bags, calculators,
1417 dictionaries, thesauruses, and children's books and books listed on approved school
1418 reading lists for pre-kindergarten through twelfth grade.

1419 (C) The exemption provided by this paragraph shall not apply to rentals, sales in a
1420 theme park, entertainment complex, public lodging establishment, restaurant, or airport
1421 or to purchases for trade, business, or resale.

1422 (D) The commissioner shall promulgate any rules and regulations necessary to
1423 implement and administer this paragraph including but not be limited to a list of those
1424 articles and items qualifying for the exemption pursuant to this paragraph;

1425 (76) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from June
1426 4, 2003, until January 1, 2007, sales of tangible personal property to, or used in the
1427 construction of, an aquarium owned or operated by an organization which is exempt from
1428 taxation under Section 501(c)(3) of the Internal Revenue Code;

1429 (77) Sales of liquefied petroleum gas or other fuel used in a structure in which plants,
1430 seedlings, nursery stock, or floral products are raised primarily for the purposes of
1431 making sales of such plants, seedlings, nursery stock, or floral products for resale;

1432 (78)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from
1433 the effective date of this paragraph until September 1, 2011, sales of tangible personal
1434 property used in direct connection with the construction of a new symphony hall facility
1435 owned or operated by an organization which is exempt from taxation under Section
1436 501(c)(3) of the Internal Revenue Code if the aggregate construction cost of such
1437 facility is \$200 million or more.

1438 (B) Any person making a sale of tangible personal property for the purpose specified
1439 in this paragraph shall collect the tax imposed on this sale unless the purchaser
1440 furnishes such person with an exemption determination letter issued by the
1441 commissioner certifying that the purchaser is entitled to purchase the tangible personal
1442 property without paying the tax;

1443 (79) The sale or use of ice for chilling poultry or vegetables in processing for market and
1444 for chilling poultry or vegetables in storage rooms, compartments, or delivery trucks;

1445 (80)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from
1446 the effective date of this paragraph until December 31, 2007, sales of tangible personal
1447 property to, or used in or for the new construction of an eligible corporate attraction.

1448 (B) As used in this paragraph, the term: 'corporate attraction' means any tourist
1449 attraction facility constructed on or after the effective date of this paragraph dedicated
1450 to the history and products of a corporation which costs exceeds \$50 million, is greater

1451 than 60,000 square feet of space, and has associated facilities, including but not limited
1452 to parking decks and landscaping owned by the same owner as the eligible corporate
1453 attraction.

1454 (C) Any person making a sale of tangible personal property for the purpose specified
1455 in this paragraph shall collect the tax imposed on this sale unless the purchaser
1456 furnishes such person with an exemption determination letter issued by the
1457 commissioner certifying that the purchaser is entitled to purchase the tangible personal
1458 property without paying the tax;

1459 (81) The sale of food and ~~beverages, except for alcoholic beverages,~~ food ingredients to
1460 a qualifying airline for service to passengers and crew in the aircraft, whether in flight or
1461 on the ground, and the furnishing without charge of food and ~~beverages~~ food ingredients
1462 to qualifying airline passengers and crew in the aircraft, whether in flight or on the
1463 ground; and for purposes of this paragraph a 'qualifying airline' shall mean any person
1464 which is authorized by the Federal Aviation Administration or appropriate agency of the
1465 United States to operate as an air carrier under an air carrier operating certificate and
1466 which provides regularly scheduled flights for the transportation of passengers or cargo
1467 for hire. As used in this paragraph, 'food and food ingredients' means substances,
1468 whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for
1469 ingestion or chewing by humans and are consumed for their taste or nutritional value.
1470 'Food and food ingredients' shall not include alcoholic beverages or tobacco;

1471 (82)(A) Purchase of energy efficient products or water efficient products with a sales
1472 price of \$1,500.00 or less per product purchased for noncommercial home or personal
1473 use. The exemption provided by this paragraph shall apply only to sales occurring
1474 during a period commencing at 12:01 A.M. on October 1, 2009, and concluding at
1475 12:00 Midnight on October 4, 2009.

1476 (B) As used in this paragraph, the term:

1477 (i) 'Energy efficient product' means any energy efficient product for noncommercial
1478 home or personal use consisting of any dishwasher, clothes washer, air conditioner,
1479 ceiling fan, fluorescent light bulb, dehumidifier, programmable thermostat,
1480 refrigerator, door, or window which has been designated by the United States
1481 Environmental Protection Agency and the United States Department of Energy as
1482 meeting or exceeding each such agency's energy saving efficiency requirements or
1483 which have been designated as meeting or exceeding such requirements under each
1484 such agency's Energy Star program.

1485 (ii) 'Water efficient product' means any product used for the conservation or efficient
1486 use of water which has been designated by the United States Environmental
1487 Protection Agency as meeting or exceeding such agency's water saving efficiency

1488 requirements or which has been designated as meeting or exceeding such
1489 requirements under such agency's Water Sense program.

1490 (C) The exemption provided for in subparagraph (A) of this paragraph shall not apply
1491 to purchases of energy efficient products or water efficient products purchased for
1492 trade, business, or resale.

1493 (D) The commissioner shall promulgate any rules and regulations necessary to
1494 implement and administer this paragraph;

1495 (83)(A) The sale or use of biomass material, including pellets or other fuels derived
1496 from compressed, chipped, or shredded biomass material, utilized in the production of
1497 energy, including without limitation the production of electricity, steam, or the
1498 production of electricity and steam, which is subsequently sold.

1499 (B) As used in this paragraph, the term 'biomass material' means organic matter,
1500 excluding fossil fuels, including agricultural crops, plants, trees, wood, wood wastes
1501 and residues, sawmill waste, sawdust, wood chips, bark chips, and forest thinning,
1502 harvesting, or clearing residues; wood waste from pallets or other wood demolition
1503 debris; peanut shells; pecan shells; cotton plants; corn stalks; and plant matter,
1504 including aquatic plants, grasses, stalks, vegetation, and residues, including hulls,
1505 shells, or cellulose containing fibers;

1506 (84)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from
1507 July 1, 2006, until June 30, 2008, sales of tangible personal property used in direct
1508 connection with the construction of a national infantry museum and heritage park
1509 facility.

1510 (B) As used in this paragraph, the term 'national infantry museum and heritage park
1511 facility' means a museum and park facility which is constructed after July 1, 2006; is
1512 dedicated to the history of the American foot soldier; has more than 130,000 square feet
1513 of space; and has associated facilities, including, but not limited to, parking, parade
1514 grounds, and memorial areas.

1515 (C) Any person making a sale of tangible personal property for the purpose specified
1516 in this paragraph shall collect the tax imposed on this sale unless the purchaser
1517 furnishes such person with an exemption determination letter issued by the
1518 commissioner certifying that the purchaser is entitled to purchase the tangible personal
1519 property without paying the tax;

1520 (85)(A) Sales of tangible personal property and services to a qualified job training
1521 organization when such organization obtains an exemption determination letter from
1522 the commissioner.

1523 (B) For purposes of this paragraph, 'qualified job training organization' means an
1524 organization which:

- 1525 (i) Is located in this state;
- 1526 (ii) Is exempt from income taxation under Section 501 (c)(3) of the Internal Revenue
1527 Code;
- 1528 (iii) Specializes in the retail sale of donated items;
- 1529 (iv) Provides job training and employment services to individuals with workplace
1530 disadvantages and disabilities; and
- 1531 (v) Uses a majority of its revenues for job training and placement programs.
- 1532 (C)(i) For the purposes of this paragraph, the term 'local sales and use tax' shall mean
1533 any sales tax, use tax, or local sales and use tax which is levied and imposed in an
1534 area consisting of less than the entire state, however authorized, including, but not
1535 limited to, such taxes authorized by or pursuant to constitutional amendment; by or
1536 pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as
1537 amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or
1538 pursuant to Article 2 of this chapter; by or pursuant to Article 2A of this chapter; by
1539 or pursuant to Part 1 of Article 3 of this chapter; by or pursuant to Part 2 of Article 3
1540 of this chapter; or by or pursuant to Article 4 of this chapter.
- 1541 (ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply
1542 to any local sales and use tax levied or imposed at any time.
- 1543 (D) The commissioner shall promulgate any rules and regulations necessary to
1544 implement and administer this paragraph.
- 1545 (E) This paragraph shall stand repealed in its entirety on July 1, 2010;
- 1546 (86) For the period commencing on July 1, 2007, and ending on June 30, 2011, the sale
1547 or use of engines, parts, equipment, and other tangible personal property used in the
1548 maintenance or repair of aircraft when such engines, parts, equipment, and other tangible
1549 personal property are installed on such aircraft that is being repaired or maintained in this
1550 state so long as such aircraft is not registered in this state;
- 1551 (87)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from
1552 July 1, 2009, until June 30, 2011, sales of tangible personal property used for and in the
1553 renovation or expansion of a zoological institution.
- 1554 (B) As used in this ~~Code section~~ paragraph, the term 'zoological institution' means a
1555 nonprofit wildlife park, terrestrial institution, or facility which is:
- 1556 (i) Open to the public, that exhibits and cares for a collection consisting primarily of
1557 animals other than fish, and has received accreditation from the Association of Zoos
1558 and Aquariums; and
- 1559 (ii) Located in this state and owned or operated by an organization which is exempt
1560 from taxation under Section 501(c)(3) of the Internal Revenue Code.

1561 (C) Any person making a sale of tangible personal property for the purpose specified
 1562 in this paragraph shall collect the tax imposed on this sale unless the purchaser
 1563 furnishes such person with an exemption determination letter issued by the
 1564 commissioner certifying that the purchaser is entitled to purchase the tangible personal
 1565 property without paying the tax;

1566 (88)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from
 1567 July 1, 2009, until July 30, 2015, sales of tangible personal property to, or used in or for
 1568 the new construction of, a civil rights museum.

1569 (B) As used in this paragraph, the term 'civil rights museum' means a museum which
 1570 is constructed after July 1, 2009; is owned or operated by an organization which is
 1571 exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; has more
 1572 than 70,000 square feet of space; and has associated facilities, including, but not limited
 1573 to, special event space and retail space.

1574 (C) Any person making a sale of tangible personal property for the purpose specified
 1575 in this paragraph shall collect the tax imposed on this sale unless the purchaser
 1576 furnishes such person with an exemption determination letter issued by the
 1577 commissioner certifying that the purchaser is entitled to purchase the tangible personal
 1578 property without paying the tax.

1579 (D) The exemption provided for under subparagraph (A) of this paragraph shall not
 1580 apply to sales of tangible personal property that occur after the museum is opened to
 1581 the public; ~~or~~

1582 (89) For the period commencing on July 1, 2009, and ending on June 30, 2011, the sale
 1583 or use of an airplane flight simulation training device approved by the Federal Aviation
 1584 Administration under Appendices A and B, 14 C.F.R. Part 60;

1585 (90) The sale of electricity to a manufacturer located in this state used directly in the
 1586 manufacture of a product if the direct cost of such electricity exceeds 50 percent of the
 1587 cost of all materials, including electricity, used directly in the product; or

1588 (91) The sale of prewritten software which has been delivered to the purchaser
 1589 electronically or by means of load and leave."

1590 SECTION 3.

1591 Said title is further amended by revising Code Section 48-8-6, relating to limitations on local
 1592 sales and use taxes, as follows:

1593 "48-8-6.

1594 (a) ~~Except as otherwise authorized by the General Assembly, no county, municipality,~~
 1595 ~~school district, or other political subdivision of this state shall impose, levy, or collect a~~

1596 ~~gross receipts tax, sales tax, use tax, or tax on amusement admission or services included~~
 1597 ~~in this article.~~

1598 (b) There shall not be imposed in any jurisdiction in this state or on any transaction in this
 1599 state local sales taxes, local use taxes, or local sales and use taxes in excess of 2 percent.
 1600 For purposes of this prohibition, the taxes affected are any sales tax, use tax, or sales and
 1601 use tax which is levied in an area consisting of less than the entire state, however
 1602 authorized, including such taxes authorized by or pursuant to constitutional amendment,
 1603 except that the following taxes shall not count toward or be subject to such 2 percent
 1604 limitation:

1605 (1) A sales and use tax for educational purposes exempted from such limitation under
 1606 Article VIII, Section VI, Paragraph IV of the Constitution;

1607 (2) Any tax levied for purposes of a metropolitan area system of public transportation,
 1608 as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page
 1609 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d)
 1610 of the Constitution; and the laws enacted pursuant to such constitutional amendment;
 1611 provided, however, that the exception provided for under this paragraph shall only apply
 1612 in a county in which a tax is being imposed under subparagraph (a)(1)(D) of Code
 1613 Section 48-8-111 in whole or in part for the purpose or purposes of a water capital outlay
 1614 project or projects, a sewer capital outlay project or projects, a water and sewer capital
 1615 outlay project or projects, water and sewer projects and costs as defined under paragraph
 1616 (3) of Code Section 48-8-200, or any combination thereof and with respect to which the
 1617 county has entered into an intergovernmental contract with a municipality, in which the
 1618 average waste-water system flow of such municipality is not less than 85 million gallons
 1619 per day, allocating proceeds to such municipality to be used solely for water and sewer
 1620 projects and costs as defined under paragraph (3) of Code Section 48-8-200. The
 1621 exception provided for under this paragraph shall apply only during the period the tax
 1622 under said subparagraph (a)(1)(D) is in effect. The exception provided for under this
 1623 paragraph shall not apply in any county in which a tax is being imposed under Article 2A
 1624 of this chapter;

1625 (3) In the event of a rate increase imposed pursuant to Code Section 48-8-96, only the
 1626 amount in excess of the initial 1 percent sales and use tax and in the event of a newly
 1627 imposed tax pursuant to Code Section 48-8-96, only the amount in excess of a 1 percent
 1628 sales and use tax; and

1629 (4) A sales and use tax levied under Article 4 of this chapter.

1630 If the imposition of any otherwise authorized local sales tax, local use tax, or local sales
 1631 and use tax would result in a tax rate in excess of that authorized by this subsection, then
 1632 such otherwise authorized tax may not be imposed.

1633 (c) Where the exception specified in paragraph (2) of subsection (b) of this Code section
 1634 applies, the tax imposed under subparagraph (a)(1)(D) of Code Section 48-8-111 shall not
 1635 apply to:

1636 (1) Reserved; and

1637 (2) The sale of motor vehicles.

1638 (c.1) Where the exception specified in paragraph (2) of subsection (b) of this Code section
 1639 applies, on and after July 1, 2007, the aggregate amount of all excise taxes imposed under
 1640 paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and use taxes shall
 1641 not exceed 14 percent.

1642 (d) Notwithstanding any law or ordinance to the contrary, any tax, charge, or fee levied
 1643 by any political subdivision of this state and applicable to mobile telecommunications
 1644 services, as defined in Section 124(7) of the federal Mobile Telecommunications Sourcing
 1645 Act, 4 U.S.C. Section 124(7), shall apply only if the customer's place of primary use is
 1646 located within the boundaries of the political subdivision levying such local tax, charge,
 1647 or fee. For purposes of this subsection, the provisions of Code Section 48-8-13 shall apply
 1648 in the same manner and to the same extent as such provisions apply to the tax levied by
 1649 Code Section 48-8-1 on mobile telecommunications services. This subsection shall not be
 1650 construed to authorize the imposition of any tax, charge, or fee."

1651 **SECTION 4.**

1652 Said title is further amended in Code Section 48-8-14, relating to certain state contract
 1653 restrictions, by revising subsection (b) as follows:

1654 "(b) On or after April 12, 2005, the Department of Administrative Services and any other
 1655 state agency shall not enter into a state-wide contract or agency contract for goods or
 1656 services, or both, in an amount exceeding \$100,000.00 with a nongovernmental vendor if
 1657 the vendor or an affiliate of the vendor is a dealer as defined in ~~paragraph (3)~~ of Code
 1658 Section 48-8-2, or meets one or more of the conditions thereunder, but fails or refuses to
 1659 collect sales or use taxes levied under this chapter on its sales delivered to Georgia."

1660 **SECTION 5.**

1661 Said title is further amended in Code Section 48-8-17, relating to ratification of an executive
 1662 order regarding gasoline taxes, by revising subsection (b) and (c) as follows:

1663 "(b) The General Assembly of Georgia ratifies the Executive Order of the Governor dated
 1664 June 2, 2008, and filed in the official records of the Office of the Governor as Executive
 1665 Order 06.02.08.01 which suspended the collection of any rate of prepaid state taxes as
 1666 defined in ~~paragraph (5.2)~~ of Code Section 48-8-2 to the extent it differs from the rate

1667 levied as of January 1, 2008, pursuant to Code Section 48-9-14 as it applies to sales of
 1668 motor fuel and aviation gasoline as those terms are defined in Code Section 48-9-2.
 1669 (c) For the time period commencing on June 2, 2008, as specified in the Executive Order
 1670 of the Governor dated June 2, 2008, and filed in the official records of the Office of the
 1671 Governor as Executive Order 06.02.08.01, the collection of any rate of prepaid state taxes
 1672 as defined in ~~paragraph (5.2)~~ of Code Section 48-8-2 to the extent it differs from the rate
 1673 levied as of January 1, 2008, pursuant to Code Section 48-9-14 as it applies to sales of
 1674 motor fuel and aviation gasoline as those terms are defined in Code Section 48-9-2 shall
 1675 be governed by the provisions of this Code section notwithstanding any provisions of Code
 1676 Section 48-9-14 or any other law to the contrary."

1677 **SECTION 6.**

1678 Said title is further amended in Code Section 48-8-17.1, relating to ratification of an
 1679 executive order on prepaid taxes, by revising paragraph (1) of subsection (a) as follows:

1680 "(1) Sonny Perdue, as Governor of Georgia, issued an Executive Order ('EO
 1681 06.02.08.01') that suspended the collection of any rate of prepaid taxes as defined in
 1682 ~~paragraph (5.2)~~ of Code Section 48-8-2 to the extent it differed from the rate levied as of
 1683 January 1, 2008, pursuant to Code Section 48-9-14 as it applied to sales of motor fuel and
 1684 aviation gasoline as those terms are defined in Code Section 48-9-2 until the General
 1685 Assembly acts upon the suspension;"

1686 **SECTION 7.**

1687 Said title is further amended by revising Code Section 48-8-30, relating to imposition, rates,
 1688 and collection of sales and use tax, as follows:

1689 "48-8-30.

1690 (a) There is levied and imposed a tax on the retail purchase, retail sale, rental, storage, use,
 1691 or consumption of tangible personal property and on the services described in this article.

1692 (b)(1) Every purchaser of tangible personal property at retail in this state shall be liable
 1693 for a tax on the purchase at the rate of 4 percent of the sales price of the purchase. The
 1694 tax shall be paid by the purchaser to the retailer making the sale, as provided in this
 1695 article. The retailer shall remit the tax to the commissioner as provided in this article and,
 1696 when received by the commissioner, the tax shall be a credit against the tax imposed on
 1697 the retailer. Every person making a sale or sales of tangible personal property at retail
 1698 in this state shall be a retailer and a dealer and shall be liable for a tax on the sale at the
 1699 rate of 4 percent of the ~~gross sale or gross sales~~ price, or the amount of taxes collected by
 1700 him from his purchaser or purchasers, whichever is greater.

1701 (2) No retail sale shall be taxable to the retailer or dealer which is not taxable to the
1702 purchaser at retail.

1703 (c)(1) Upon the first instance of use, consumption, distribution, or storage within this
1704 state of tangible personal property purchased at retail outside this state, the owner or user
1705 of the property shall be a dealer and shall be liable for a tax at the rate of 4 percent of the
1706 ~~cost~~ purchase price, except as provided in paragraph (2) of this subsection.

1707 (2) Upon the first instance of use, consumption, distribution, or storage within this state
1708 of tangible personal property purchased at retail outside this state and used outside this
1709 state for more than six months prior to its first use within this state, the owner or user of
1710 the property shall be a dealer and shall be liable for a tax at the rate of 4 percent of the
1711 ~~cost~~ purchase price or fair market value of the property, whichever is the lesser.

1712 (3) This subsection shall not be construed to require a duplication in the payment of the
1713 tax. The tax imposed by this subsection shall be subject to the credit otherwise granted
1714 by this article for like taxes previously paid in another state.

1715 (c.1)(1) Every purchaser of tangible personal property at retail outside this state from a
1716 dealer, as defined in ~~subparagraph (H) of paragraph (3) of Code Section 48-8-2~~, when
1717 such property is to be used, consumed, distributed, or stored within this state, shall be
1718 liable for a tax on the purchase at the rate of 4 percent of the sales price of the purchase.
1719 It shall be prima-facie evidence that such property is to be used, consumed, distributed,
1720 or stored within this state if that property is delivered in this state to the purchaser or
1721 agent thereof. The tax shall be paid by the purchaser to the retailer making the sale, as
1722 provided in this article. The retailer shall remit the tax to the commissioner as provided
1723 in this article and, when received by the commissioner, the tax shall be a credit against
1724 the tax imposed on the retailer. Every person who is a dealer, as defined in ~~subparagraph~~
1725 ~~(H) of paragraph (3) of Code Section 48-8-2~~ and who makes any sale of tangible personal
1726 property at retail outside this state which property is to be delivered in this state to a
1727 purchaser or purchaser's agent shall be a retailer and a dealer for purposes of this article
1728 and shall be liable for a tax on the sale at the rate of 4 percent of such gross sales price
1729 or the amount of tax as collected by that person from purchasers having their purchases
1730 delivered in this state, whichever is greater.

1731 (2) No retail sale shall be taxable to the retailer or dealer which is not taxable to the
1732 purchaser at retail. The tax imposed by this subsection shall be subject to the credit
1733 otherwise granted by this article for like taxes previously paid in another state. This
1734 subsection shall not be construed to require a duplication in the payment of the tax.

1735 (d)(1) Every person to whom tangible personal property in the state is leased or rented
1736 shall be liable for a tax on the lease or rental at the rate of 4 percent of the ~~gross lease or~~
1737 ~~rental charge~~ sales price. The tax shall be paid to the person who leases or rents the

1738 property by the person to whom the property is leased or rented. A person who leases or
 1739 rents property to others as a dealer under this article shall remit the tax to the
 1740 commissioner as provided in this article. When received by the commissioner, the tax
 1741 shall be a credit against the tax imposed on the person who leases or rents the property
 1742 to others. Every person who leases or rents tangible personal property in this state to
 1743 others shall be a dealer and shall be liable for a tax on the lease or rental at the rate of 4
 1744 percent of the ~~gross lease or rental proceeds~~ sales price, or the amount of taxes collected
 1745 by him from persons to whom he leases or rents tangible personal property, whichever
 1746 is greater.

1747 (2) No lease or rental shall be taxable to the person who leases or rents tangible property
 1748 to another which is not taxable to the person to whom the property is leased or rented.

1749 (3) The lessee of both taxable and exempt property in this state under a single lease
 1750 agreement containing a lease period of ten years or more shall have the option to
 1751 discharge in full all sales and use taxes imposed by this article relating to the tangible
 1752 personal property by paying in a lump sum 4 percent of the fair market value of the
 1753 tangible personal property at the date of inception of the lease agreement in the same
 1754 manner and under the same conditions applicable to sales of the tangible personal
 1755 property.

1756 (e) Upon the first instance of use within this state of tangible personal property leased or
 1757 rented outside this state, the person to whom the property is leased or rented shall be a
 1758 dealer and shall be liable for a tax at the rate of 4 percent of the ~~rental charge~~ sales price
 1759 paid to the person who leased or rented the property, subject to the credit authorized for
 1760 like taxes previously paid in another state.

1761 (e.1)(1) Every person who leases, as lessor, or rents tangible personal property outside
 1762 this state for use within this state shall be liable for a tax at the rate of 4 percent of the
 1763 ~~rental charge~~ sales price paid for that lease or rental if that person is a dealer, as defined
 1764 in ~~subparagraph (H) of paragraph (3)~~ of Code Section 48-8-2 and title to that property
 1765 remains in that person. It shall be prima-facie evidence that such property is to be used
 1766 within this state if that property is delivered in this state to the lessee or renter of such
 1767 property, or to the agent of either. The tax shall be paid by the lessee or renter and
 1768 payment of the tax shall be made to the lessor or person receiving rental payments for that
 1769 property, which person shall be the dealer for purposes of this article. The dealer shall
 1770 remit the tax to the commissioner as provided in this article and, when received by the
 1771 commissioner, the tax shall be a credit against the tax imposed on the dealer. Every
 1772 person who is a dealer, as defined in ~~subparagraph (H) of paragraph (3)~~ of Code Section
 1773 48-8-2 and who leases or rents tangible personal property outside this state to be
 1774 delivered in this state to the lessee, renter, or agent of either shall be a dealer and shall be

1775 liable as such for a tax on the lease or rental at the rate of 4 percent of the ~~gross proceeds~~
1776 sales price from such leases or rentals or the amount of taxes collected by that dealer for
1777 leases or rentals of tangible personal property delivered in this state, whichever is greater.

1778 (2) No lease or rental shall be taxable to the dealer which is not taxable to the lessee or
1779 renter. The tax imposed by this subsection shall be subject to the credit granted by this
1780 article for like taxes previously paid in another state. This subsection shall not be
1781 construed to require a duplication in the payment of the tax.

1782 (f)(1) Every person purchasing or receiving any service within this state, the purchase
1783 of which is a retail sale, shall be liable for tax on the purchase at the rate of 4 percent of
1784 the ~~gross charge or charges~~ sales price made for the purchase. The tax shall be paid by
1785 the person purchasing or receiving the service to the person furnishing the service. The
1786 person furnishing the service, as a dealer under this article, shall remit the tax to the
1787 commissioner as provided in this article; and, when received by the commissioner, the
1788 tax shall be a credit against the tax imposed on the person furnishing the service. Every
1789 person furnishing a service, the purchase of which is a retail sale, shall be a dealer and
1790 shall be liable for a tax on the sale at the rate of 4 percent of the ~~gross charge or charges~~
1791 sales price made for furnishing the service, or the amount of taxes collected by him from
1792 the person to whom the service is furnished, whichever is greater.

1793 (2) No sale of services shall be taxable to the person furnishing the service which is not
1794 taxable to the purchaser of the service.

1795 (g) Whenever a purchaser of tangible personal property under subsection (b) or (c.1) of
1796 this Code section, a lessee or renter of the property under subsection (d) or (e.1) of this
1797 Code section, or a purchaser of taxable services under subsection (f) of this Code section
1798 does not pay the tax imposed upon him or her to the retailer, lessor, or dealer who is
1799 involved in the taxable transaction, the purchaser, lessee, or renter shall be a dealer himself
1800 or herself and the commissioner, whenever he or she has reason to believe that a purchaser
1801 or lessee has not so paid the tax, may assess and collect the tax directly against and from
1802 the purchaser, lessee, or renter, unless the purchaser, lessee, or renter shows that the
1803 retailer, lessor, or dealer who is involved in the transaction has nevertheless remitted to the
1804 commissioner the tax imposed on the transaction. If payment is received directly from the
1805 purchaser, it shall not be collected a second time from the retailer, lessor, or dealer who is
1806 involved.

1807 (h) The tax imposed by this Code section shall be collected from the dealer and paid at the
1808 time and in the manner provided in this article. Any person engaging or continuing in
1809 business as a retailer and wholesaler or jobber shall pay the tax imposed on the ~~gross~~
1810 proceeds sales price of retail sales of the business at the rate specified when proper books
1811 are kept showing separately the gross proceeds of sales for each business. If the records

1812 are not kept separately, the tax shall be paid as a retailer or dealer on the gross sales of the
 1813 business. For the purpose of this Code section, all sales through any one vending machine
 1814 shall be treated as a single sale. The gross proceeds for reporting vending sales shall be
 1815 treated as if the tax is included in the sale and the taxable proceeds shall be net of the tax
 1816 included in the sale.

1817 (i) The tax levied by this Code section is in addition to all other taxes, whether levied in
 1818 the form of excise, license, or privilege taxes, and shall be in addition to all other fees and
 1819 taxes levied.

1820 (j) In the event any distributor licensed under Chapter 9 of this title purchases any motor
 1821 fuel on which the prepaid state tax or prepaid local tax or both have been imposed pursuant
 1822 to this Code section and resells the same to a governmental entity that is totally or partially
 1823 exempt from such tax under paragraph (1) of Code Section 48-8-3, such distributor shall
 1824 be entitled to either a credit or refund. The amount of the credit or refund shall be the
 1825 prepaid state tax or prepaid local tax or both rates for which such governmental entity is
 1826 exempt multiplied by the gallons of motor fuel purchased for its exclusive use. To be
 1827 eligible for the credit or refund, the distributor shall reduce the amount such distributor
 1828 charges for the fuel sold to such governmental entity by an amount equal to the tax from
 1829 which such governmental entity is exempt. Should a distributor have a liability under this
 1830 Code section, the distributor may elect to take a credit for those sales against such liability.

1831 (k) The prepaid local tax shall be imposed at the time tax is imposed under subparagraph
 1832 (b)(2)(B) of Code Section 48-9-14."

1833 SECTION 8.

1834 Said title is further amended by revising Code Section 48-8-31, relating to designation of
 1835 price brackets, as follows:

1836 "48-8-31.

1837 ~~Except as otherwise provided in Code Section 48-8-30, the commissioner may prepare~~
 1838 ~~suitable brackets of prices for the collection of the tax imposed by this article. The use of~~
 1839 ~~tokens is prohibited~~ Tax computation must be carried to the third decimal place, and the
 1840 tax must be rounded to a whole cent using a method that rounds up to the next cent
 1841 whenever the third decimal place is greater than four."

1842 **SECTION 9.**

1843 Said title is further amended by revising Code Section 48-8-32, relating to tax collection
 1844 from dealers, as follows:

1845 "48-8-32.

1846 The tax at the rate of 4 percent of the retail sales price at the time of sale or 4 percent of the
 1847 ~~cost~~ purchase price at the time of purchase, as the case may be, shall be collectable from
 1848 all persons engaged as dealers in the sale at retail, or in the use, consumption, distribution,
 1849 or storage for use or consumption in this state of tangible personal property."

1850 **SECTION 10.**

1851 Said title is further amended by revising Code Section 48-8-38, relating to taxability burden
 1852 of proof, as follows:

1853 "48-8-38.

1854 (a) All gross sales of a retailer are subject to the tax imposed by this article until the
 1855 contrary is established. The burden of proving that a sale of tangible personal property is
 1856 not a sale at retail is upon the person who makes the sale unless he takes from the purchaser
 1857 a certificate stating that the property is purchased for resale or is otherwise exempt.

1858 (b) The certificate relieves the seller from the burden of proof as provided in subsection
 1859 (a) of this Code section ~~only if taken in good faith if the seller acquires from a person who:~~
 1860 the purchaser a properly completed certificate.

1861 ~~(1) Is engaged in the business of selling tangible personal property;~~

1862 ~~(2) Holds the permit provided for in this article; and~~

1863 ~~(3) At the time of purchasing the tangible personal property, intends to sell it in the~~
 1864 ~~regular course of business or is unable to ascertain at the time of purchase whether the~~
 1865 ~~property will be sold or will be used for some other purpose.~~

1866 (c) The certificate ~~stating that the property is purchased for resale~~ shall: include such
 1867 information as is determined by the commissioner and is signed by the purchaser if it is a
 1868 paper exemption certificate.

1869 ~~(1) Be signed by and bear the name and address of the purchaser;~~

1870 ~~(2) Indicate the number of the permit issued to the purchaser; and~~

1871 ~~(3) Indicate the general character of the tangible personal property sold by the purchaser~~
 1872 ~~in the regular course of business."~~

1873 **SECTION 11.**

1874 Said title is further amended by revising Code Section 48-8-39, relating to property retention,
 1875 demonstration, or display, as follows:

1876 "48-8-39.

1877 (a) If a purchaser who gives a certificate stating that property is purchased for resale makes
 1878 any use of the property other than retention, demonstration, or display while holding it for
 1879 sale in the regular course of business, the use shall be deemed a retail sale by the purchaser
 1880 as of the time the property is first used by him and the ~~cost~~ purchase price of the property
 1881 to him shall be deemed the gross receipts from the retail sale. If the sole use of the
 1882 property other than retention, demonstration, or display in the regular course of business
 1883 is the rental of the property while holding it for sale or the transportation of persons for hire
 1884 while holding the property for sale, the purchaser may elect to include in his gross receipts
 1885 either the amount of the rental charged or the total amount of the charges made by him for
 1886 the transportation rather than the cost of the property to him.

1887 (b)(1)(A) If a person who engages in the business of processing, manufacturing, or
 1888 converting industrial materials into articles of tangible personal property for sale,
 1889 whether as custom-made or stock items, makes any use of the article of tangible
 1890 personal property other than retaining, demonstrating, or displaying it for sale, the use
 1891 shall be deemed a retail sale as of the time the article is first used by such person and
 1892 its fair market value at the time shall be deemed the sales price of the article, except as
 1893 otherwise provided in subparagraph (B) of this paragraph.

1894 (B)(i) As used in this subparagraph, the term 'total raw material cost' means the
 1895 manufactured cost of carpet samples; supplies used in the manufacturing of carpet
 1896 samples such as binding, grommets, and similar items; carpet sample display devices
 1897 such as racks, binders, and similar items; and inbound freight charges. Such term
 1898 does not mean or include labor or overhead for assembling or producing samples from
 1899 finished carpet and does not mean or include outbound freight charges which may be
 1900 charged to the expense account for carpet samples.

1901 (ii) For purposes of subparagraph (A) of this paragraph, the fair market value of any
 1902 carpet sample shall be equal to 21.9 percent of the total raw material cost of the
 1903 sample, except that the fair market value of a sample of carpet that is manufactured
 1904 exclusively for commercial use shall be equal to 1 percent of the total raw material
 1905 cost of the sample.

1906 (2) If the sole use of the article other than retaining, demonstrating, or displaying it for
 1907 sale is the rental of the article while holding it for sale, the processor, manufacturer, or
 1908 converter may elect to treat the amount of the rental charged rather than the fair market
 1909 value of the article as its sales price."

1910 **SECTION 12.**

1911 Said title is further amended by revising Code Section 48-8-45, relating to reporting of sales
 1912 and accounting methods, as follows:

1913 "48-8-45.

1914 (a) Any person taxable under this article having both cash and credit sales may report the
 1915 sales on either the cash or accrual basis of accounting. Each election of a basis of
 1916 accounting shall be made on the first return filed and, once made, the election shall be
 1917 irrevocable unless the commissioner grants written permission for a change. Permission
 1918 for a change in the basis of accounting shall be granted only upon written application and
 1919 under rules and regulations promulgated by the commissioner.

1920 (b) Any person reporting on a cash basis of accounting shall include in each return all cash
 1921 sales made during the period covered by the return and all collections made in any period
 1922 on credit sales of prior periods and shall pay the tax on the sales at the time of filing the
 1923 return.

1924 (c) Any person reporting on the accrual basis of accounting shall be allowed a deduction
 1925 for bad debts under rules and regulations of the commissioner ~~on the same basis that bad~~
 1926 ~~debts are allowed as a deduction on state income tax returns.~~

1927 (d) An assignee of private label credit card debt purchased directly from a dealer without
 1928 recourse or a credit card bank which extends such credit to customers under a private label
 1929 credit card program shall be allowed a deduction for private label credit card bad debts
 1930 under rules and regulations of the commissioner ~~on the same basis that private label credit~~
 1931 ~~card bad debts are allowed as a deduction on state income tax returns.~~ An issuer or
 1932 assignee of private label credit card debt may claim its deduction for private label credit
 1933 card bad debts on a return filed by a member of an affiliated group as defined under 26
 1934 U.S.C. Section 1504."

1935 **SECTION 13.**

1936 Said title is further amended by revising Code Section 48-8-49, relating to dealer returns and
 1937 estimated tax liability, as follows:

1938 "48-8-49.

1939 (a) Each dealer, on or before the twentieth day of each month, shall transmit returns to the
 1940 commissioner showing the gross sales and purchases arising from all sales and purchases
 1941 taxable under this article during the preceding calendar month. The commissioner may
 1942 provide by regulation for quarterly or annual returns or, upon application, may permit a
 1943 dealer to file a return on a quarterly or annual basis if deemed advisable by the
 1944 commissioner. The returns required by this subsection shall be made upon forms
 1945 prescribed, prepared, and furnished by the commissioner.

1946 (b)(1) As used in this subsection, the term 'estimated tax liability' means a dealer's tax
 1947 liability, adjusted to account for any subsequent change in the state sales and use tax rate,
 1948 based on the dealer's average monthly payments for the last fiscal year.

- 1949 (2) If the ~~estimated tax liability of a dealer for any taxable period exceeds \$5,000.00 in~~
1950 ~~the preceding calendar year was greater than \$30,000.00 excluding local sales taxes,~~ the
1951 dealer shall file a return and remit to the commissioner not less than 50 percent of the
1952 estimated tax liability for the taxable period on or before the twentieth day of the period.
1953 The amount of the payment of the estimated tax liability shall be credited against the
1954 amount to be due on the return required under subsection (a) of this Code section. This
1955 subsection shall not apply to ~~any dealer unless during the previous fiscal year the dealer's~~
1956 ~~monthly payments exceeded \$5,000.00 per month for three consecutive months or more~~
1957 ~~nor shall this subsection apply to any dealer whose primary business is the sale of motor~~
1958 ~~fuels who is remitting prepaid state tax under paragraph (2) of subsection (b) of Code~~
1959 ~~Section 48-9-14. No local sales taxes shall be included in determining any estimated tax~~
1960 ~~liability.~~
- 1961 (c) Gross proceeds from rentals or leases of tangible personal property shall be reported
1962 and the tax shall be paid with respect to the gross proceeds in accordance with the rules and
1963 regulations prescribed by the commissioner.
- 1964 (d)(1) The commissioner, in his discretion, may grant extensions, upon written
1965 application, to the end of the calendar month in which any tax return is due under this
1966 Code section.
- 1967 (2) No extension granted pursuant to paragraph (1) of this subsection shall be valid
1968 unless granted in writing and only for a period of not more than 12 consecutive months.
- 1969 (3) Upon the grant of any extension authorized by this subsection, the taxpayer shall
1970 remit to the commissioner on or before the date the tax would otherwise become due
1971 without the grant of the extension an amount which, when added to the amount
1972 previously remitted for the period pursuant to subsection (b) of this Code section, equals
1973 not less than 100 percent of the dealer's payment for the corresponding period of the
1974 preceding tax year.
- 1975 (4) No interest or penalty shall be charged, assessed, or collected by reason of the
1976 granting of an extension pursuant to this subsection.
- 1977 (5) This subsection shall apply to all extensions granted pursuant to this subsection on
1978 or after July 1, 1980, and to all extensions granted pursuant to this subsection and in
1979 effect on July 1, 1980."

SECTION 14.

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

"48-8-50.

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

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

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

(3) By any other common ownership or control.

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

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

(2) With respect to each certificate of registration number on such return, a deduction of one-half of 1 percent of that portion exceeding \$3,000.00 of the combined total amount of all sales and use taxes reported due on such return for each location other than the taxes specified in paragraph (3) of this subsection;

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

2016 (4) A deduction with respect to Code Section 48-9-14, as defined in ~~paragraph (5.2) of~~
2017 Code Section 48-8-2, shall be at the rate of one-half of 1 percent of the total amount due
2018 of the prepaid state tax reported due on such return, so long as the return and payment are
2019 timely, regardless of the classification of tax return upon which the remittance is made.

2020 (c) The department shall compile and maintain a master registry of the certificate of
2021 registration numbers filed on such returns with respect to all the affiliated business entities
2022 and multiple locations of each dealer and shall assign a master number to each dealer.
2023 Each dealer required to file a return under this article shall also include such dealer's master
2024 number on such return if such number has been assigned by the department under this
2025 subsection.

2026 (d) With respect to a dealer which consists of only a single sales location or which consists
2027 of a group of fewer than four sales locations or affiliated entities, or any combination
2028 thereof, claiming such deduction, a separate return shall be filed for each sales location and
2029 affiliated entity for each reporting period. With respect to a dealer which consists of a
2030 group of four or more sales locations or affiliated entities, or any combination thereof,
2031 claiming such deduction, a single, consolidated return shall be filed for such entire group.
2032 A consolidated return under this subsection shall be used for the purpose of identifying the
2033 sales locations or affiliated entities of a dealer and such consolidated return shall identify
2034 separately the reporting and paying of the tax due under this article for each sales location
2035 or affiliated entity of such dealer. The deduction requirements of subsection (b) of this
2036 Code section shall apply separately to each certificate of registration number on such
2037 return.

2038 (e) No deduction shall be allowed under this Code section unless all of the requirements
2039 of subsections (b), (c), and (d) of this Code section have been satisfied.

2040 (f) The deduction authorized under this Code section shall be combined with and
2041 calculated with the deductions authorized under Code Section 48-8-87, Code Section
2042 48-8-104, Code Section 48-8-113, Code Section 48-8-204, Section 25 of an Act approved
2043 March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid
2044 Transit Authority Act of 1965,' and any other sales tax, use tax, or sales and use tax which
2045 is levied and imposed in an area consisting of less than the entire state, however authorized,
2046 by applying the deduction rate specified in this Code section against the combined total of
2047 all such taxes reported due on the same return.

2048 (g) The reimbursement deduction authorized under Section 25 of an Act approved March
2049 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit
2050 Authority Act of 1965,' shall be at the rate and subject to the requirements specified under
2051 subsections (b) through (f) of this Code section.

2052 (h) Each certified service provider as defined in Code Section 48-8-161 shall receive the
 2053 amount provided in the contract between the certified service provider and the Streamlined
 2054 Sales Tax Governing Board."

2055 **SECTION 15.**

2056 Said title is further amended by revising Code Section 48-8-52, relating to dealers' duty to
 2057 keep records, examination, assessment, and collection, as follows:

2058 "48-8-52.

2059 (a)(1) Each dealer required to make a return and pay any tax under this article shall keep
 2060 and preserve:

2061 (A) Suitable records of the sales and purchases taxable under this article;

2062 (B) Other books of account which are necessary to determine the amount of tax due;

2063 (C) Other information as required by the commissioner; and

2064 (D) For a period of three years, all invoices and other records of goods, wares,
 2065 merchandise, and other subjects of taxation under this article.

2066 (2) All books, invoices, and other records required to be kept by this subsection shall be
 2067 open to examination at all reasonable hours by the commissioner or any of his duly
 2068 authorized agents.

2069 (b) In the event the dealer has imported tangible personal property and fails to produce an
 2070 invoice showing the ~~cost~~ purchase price of each article subject to tax or if the invoice does
 2071 not reflect the true or actual ~~cost~~ purchase price, the commissioner shall ascertain in any
 2072 manner feasible the true ~~cost~~ purchase price and shall assess and collect the tax with
 2073 interest and penalties as accrued on the true ~~cost~~ purchase price as assessed by the
 2074 commissioner. The assessment so made shall be considered prima facie correct and the
 2075 burden to show the contrary shall rest upon the dealer.

2076 (c) In the case of the lease or rental of tangible personal property when the consideration
 2077 reported by the dealer does not, in the judgment of the commissioner, represent the true or
 2078 actual consideration, the commissioner may fix the true or actual consideration and collect
 2079 the tax on the consideration in the same manner as provided in Code Section 48-8-51, with
 2080 interest and penalties as accrued."

2081 **SECTION 16.**

2082 Said title is further amended by revising Code Section 48-8-58, relating to return allowances,
 2083 as follows:

2084 "48-8-58.

2085 (a)(1) As used in this subsection, the term 'return allowance' means the amount of the
 2086 sales price or ~~cost~~ purchase price refunded by the dealer to the purchaser in cash or credit.

2087 No credit shall be allowed to the dealer under this subsection for taxes collected by such
 2088 dealer from the purchaser unless the taxes collected have been returned by the dealer to
 2089 the purchaser.

2090 (2) When property sold is subsequently returned by agreement to the dealer by the
 2091 purchaser, the dealer shall be entitled to credit for the tax imposed by this article with
 2092 respect to the return allowance, in the manner prescribed by the commissioner, as
 2093 follows:

2094 (A) The dealer in the original return for the taxable period in which the return of the
 2095 property is allowed may deduct from the dealer's gross sales the amount of the return
 2096 allowance; or

2097 (B) When a dealer has retired from business and has filed a final return, a claim for
 2098 refund of the tax for which the dealer would be entitled to credit under this subsection
 2099 may be filed within the time and in the manner prescribed under Code Section 48-2-35.

2100 (b) The commissioner shall make available to dealers all necessary forms for filing returns
 2101 and instructions to ensure a full collection from dealers and an accounting for the taxes due.
 2102 Failure of any dealer to secure the commissioner's forms shall not relieve the dealer from
 2103 the payment of the tax at the time and in the manner provided in this article.

2104 (c) The commissioner shall promulgate any rules and regulations necessary to implement
 2105 this Code section."

2106 **SECTION 17.**

2107 Said title is further amended by revising Code Section 48-8-59, relating to dealer certificates
 2108 of registration, as follows:

2109 "48-8-59.

2110 (a)(1) Every person desiring to engage in or conduct business as a seller or dealer in this
 2111 state shall file with the commissioner an application for a certificate of registration for
 2112 each place of business.

2113 (2) Each person whose business extends into more than one county shall be required to
 2114 secure only one certificate of registration under this article. The certificate of registration
 2115 shall cover all operations of the company throughout this state.

2116 (b) Every application for a certificate of registration shall be made upon a form prescribed
 2117 by the commissioner and shall contain the name under which the applicant transacts or
 2118 intends to transact business, the location of his place or places of business, and such other
 2119 information as the commissioner may require. The Except for sellers or dealers who
 2120 register with the Streamlined Sales Tax Governing Board, the application shall be signed:

2121 (1) If the owner is an individual, by the individual;

2122 (2) In the case of an association or partnership, by a member or partner; or

2123 (3) In the case of a corporation, by an executive officer or some other person specifically
 2124 authorized by the corporation to sign the application. Written evidence of this authority
 2125 to sign shall be attached to the application.

2126 (c) When the required application has been made, the commissioner shall issue to the
 2127 applicant a separate certificate of registration for each place of business within the state.
 2128 A certificate of registration is not assignable and is valid only for the person in whose name
 2129 it is issued and for the transaction of business at the place designated in the certificate. The
 2130 certificate shall be conspicuously displayed at all times at the place for which the certificate
 2131 is issued.

2132 (d) A seller whose certificate of registration has been previously suspended or revoked
 2133 shall pay the commissioner a fee of \$1.00 for the renewal or issuance of a certificate of
 2134 registration."

2135 SECTION 18.

2136 Said title is further amended by adding new Code sections to read as follows:

2137 "48-8-68.

2138 If the sales tax rate changes with less than 30 days between the enactment of the rate
 2139 change and the effective date of such rate change, sellers shall be relieved of liability for
 2140 failing to collect tax at the new rate if:

2141 (1) The seller collected tax at the immediately preceding effective rate; and

2142 (2) The seller's failure to collect at the newly effective rate does not extend beyond 30
 2143 days after the date of enactment of the new rate.

2144 The provisions of this Code section do not apply if the commissioner establishes that the
 2145 seller fraudulently failed to collect at the new rate or solicits purchasers based on the
 2146 immediately preceding effective rate.

2147 48-8-69.

2148 (a) Any local sales tax rate changes made pursuant to this chapter shall apply to purchases
 2149 from printed catalogs wherein the purchaser computed the tax based upon local tax rates
 2150 published in the catalog only on the first day of a calendar quarter after a minimum of 120
 2151 days' notice to sellers.

2152 (b) For sales and use tax purposes only, local jurisdiction boundary changes are effective
 2153 only on the first day of a calendar quarter after a minimum of 60 days' notice to sellers.

2154 48-8-70.

2155 If a nine-digit ZIP code designation is not available for a street address or if a seller or
 2156 certified service provider is unable to determine the nine-digit ZIP code designation

2157 applicable to a purchase after exercising due diligence to determine the designation, the
2158 seller or certified service provider may apply the rate for the five-digit ZIP code area. For
2159 the purposes of this Code section, there is a rebuttable presumption that a seller or certified
2160 service provider has exercised due diligence if the seller has attempted to determine the
2161 nine digit ZIP code designation by utilizing software approved by the Streamlined Sales
2162 Tax Governing Board that makes this designation from the street address and the five-digit
2163 ZIP code applicable to a purchase.

2164 48-8-71.

2165 Sellers and certified service providers shall not be liable for having charged and collected
2166 the incorrect amount of sales or use tax resulting from the seller or certified service
2167 provider relying on erroneous data provided by this state on state and local tax rates, local
2168 boundaries, and taxing jurisdiction assignments.

2169 48-8-72.

2170 (a) A cause of action against a seller for over-collected sales or use taxes does not accrue
2171 until a purchaser has provided written notice to the seller and the seller has had 60 days to
2172 respond. Such notice to the seller must contain the information necessary to determine the
2173 validity of the request.

2174 (b) In connection with a purchaser's request from a seller of over-collected sales or use
2175 taxes, a seller shall be presumed to have a reasonable business practice, if in the collection
2176 of such sales or use taxes, the seller:

2177 (1) Uses either a provider or a system, including a proprietary system, that is certified by
2178 the state; and

2179 (2) Has remitted to the state all taxes collected less any deductions, credits, or collection
2180 allowances.

2181 48-8-73.

2182 A seller and certified service provider are relieved of liability for having charged and
2183 collected the incorrect amount of sales or use tax resulting from the seller or certified
2184 service provider relying on erroneous data provided by this state in the taxability matrix.

2185 48-8-74.

2186 The effective date for a sales tax rate change for services covering a period starting before
2187 and ending after the statutory effective date shall be as follows:

2188 (1) For a rate increase, the new rate shall apply to the first billing period starting on or
2189 after the effective date; and

2190 (2) For a rate decrease, the new rate shall apply to bills rendered on or after the effective
 2191 date.

2192 48-8-75.

2193 (a) A purchaser shall be relieved from liability for penalty for having failed to pay the
 2194 correct amount of sales or use tax if:

2195 (1) A purchaser's seller or certified service provider relied on erroneous data provided
 2196 by this state on tax rates, boundaries, taxing jurisdiction assignments, or in the taxability
 2197 matrix completed by this state;

2198 (2) A purchaser holding a direct pay permit relied on erroneous data provided by this
 2199 state on tax rates, boundaries, taxing jurisdiction assignments, or in the taxability matrix
 2200 completed by this state;

2201 (3) A purchaser relied on erroneous data provided by this state in the taxability matrix
 2202 completed by this state; or

2203 (4) A purchaser using databases provided by this state relied on erroneous data provided
 2204 by this state on tax rates, boundaries, or taxing jurisdiction assignments.

2205 (b) A purchaser shall be relieved from liability for tax and interest for having failed to pay
 2206 the correct amount of sales or use tax in the circumstances described subsection (a) of this
 2207 Code section provided that, with respect to reliance on the taxability matrix completed by
 2208 this state, such relief is limited to the state's erroneous classification in the taxability matrix
 2209 of terms included in the Library of Definitions as 'taxable' or 'exempt,' 'included in sales
 2210 price,' or 'excluded from sales price' or 'included in the definition' or 'excluded from the
 2211 definition.'

2212 48-8-76.

2213 (a) A seller who registers to pay or to collect and remit applicable sales or use tax on sales
 2214 made to purchasers in this state in accordance with the terms of the Streamlined Sales and
 2215 Use Tax Agreement is relieved from the obligation to remit uncollected sales tax provided
 2216 the seller was not so registered in this state in the twelve-month period preceding the
 2217 effective date of this state's participation in the Streamlined Sales and Use Tax Agreement.

2218 (b) The relief provided in subsection (a) of this Code section precludes an assessment for
 2219 uncollected or unpaid sales together with penalty or interest for sales made during the
 2220 period the seller was not registered in this state, provided that the registration occurs within
 2221 12 months of the effective date of this state's participation in the Streamlined Sales and Use
 2222 Tax Agreement.

2223 (c) The relief provided in subsection (a) of this Code section shall not be available to a
 2224 seller with respect to any matter or matters for which the seller received notice of the

2225 commencement of an audit and which audit is not yet finally resolved including any related
 2226 administrative and judicial processes.

2227 (d) The relief provided in subsection (a) of this Code section shall not be available for
 2228 sales or use taxes already paid or remitted to this state or to taxes collected by the seller.

2229 (e) The relief provided in subsection (a) of this Code section is fully effective, absent the
 2230 seller's fraud or intentional misrepresentation of a material fact, as long as the seller
 2231 continues registration and continues payment or collection and remittance of applicable
 2232 sales or use taxes for a period of at least 36 months. The statute of limitations applicable
 2233 to asserting a tax liability is tolled during this 36 month period.

2234 (f) The relief provided in subsection (a) of this Code section is applicable only to sales or
 2235 use taxes due from a seller in its capacity as a seller and not to sales or use taxes due from
 2236 a seller in its capacity as a buyer.

2237 48-8-77.

2238 (a) This Code section shall not be construed to impose sales and use tax on any tangible
 2239 personal property or service which was not subject to such tax prior to January 1, 2011.

2240 (b)(1) The retail sale, excluding lease or rental, of a product shall be sourced as follows:

2241 (A) When the product is received by the purchaser at a business location of the seller,
 2242 the sale is sourced to that business location;

2243 (B) When the product is not received by the purchaser at a business location of the
 2244 seller, the sale is sourced to the location where receipt by the purchaser, or the
 2245 purchaser's donee, designated as such by the purchaser, occurs, including the location
 2246 indicated by instructions for delivery to the purchaser or donee, known to the seller;

2247 (C) When subparagraph (A) or (B) of this paragraph does not apply, the sale is sourced
 2248 to the location indicated by an address for the purchaser that is available from the
 2249 business records of the seller that are maintained in the ordinary course of the seller's
 2250 business when use of this address does not constitute bad faith;

2251 (D) When subparagraph (A), (B), or (C) of this paragraph does not apply, the sale is
 2252 sourced to the location indicated by an address for the purchaser obtained during the
 2253 consummation of the sale, including the address of a purchaser's payment instrument,
 2254 if no other address is available, when use of this address does not constitute bad faith;

2255 (E) When subparagraph (A), (B), (C), or (D) of this paragraph does not apply,
 2256 including the circumstance in which the seller is without sufficient information to apply
 2257 the previous rules, then the location will be determined by the address from which
 2258 tangible personal property was shipped, from which the digital good or the computer
 2259 software delivered electronically was first available for transmission by the seller, or

2260 from which the service was provided, disregarding for these purposes any location that
2261 merely provided the digital transfer of the product sold.

2262 (2) The lease or rental of tangible personal property, other than property identified in
2263 paragraph (3) or (4) of this subsection, shall be sourced as follows:

2264 (A) For a lease or rental that requires recurring periodic payments, the first periodic
2265 payment is sourced the same as a retail sale in accordance with the provisions of
2266 paragraph (1) of this subsection. Periodic payments made subsequent to the first
2267 payment are sourced to the primary property location for each period covered by the
2268 payment. The primary property location shall be as indicated by an address for the
2269 property provided by the lessee that is available to the lessor from its records
2270 maintained in the ordinary course of business, when use of this address does not
2271 constitute bad faith. The property location shall not be altered by intermittent use at
2272 different locations, such as use of business property that accompanies employees on
2273 business trips and service calls.

2274 (B) For a lease or rental that does not require recurring periodic payments, the payment
2275 is sourced the same as a retail sale in accordance with the provisions of paragraph (1)
2276 of this subsection.

2277 (C) This subsection does not affect the imposition or computation of sales or use tax
2278 on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of
2279 property for lease.

2280 (3) The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not
2281 qualify as transportation equipment, as defined in paragraph (4) of this subsection, shall
2282 be sourced as follows:

2283 (A) For a lease or rental that requires recurring periodic payments, each periodic
2284 payment is sourced to the primary property location. The primary property location
2285 shall be as indicated by an address for the property provided by the lessee that is
2286 available to the lessor from its records maintained in the ordinary course of business,
2287 when use of this address does not constitute bad faith. This location shall not be altered
2288 by intermittent use at different locations.

2289 (B) For a lease or rental that does not require recurring periodic payments, the payment
2290 is sourced the same as a retail sale in accordance with the provisions of paragraph (1)
2291 of this subsection.

2292 (C) This subsection shall not affect the imposition or computation of sales or use tax
2293 on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of
2294 property for lease.

2295 (4) The retail sale, including lease or rental, of transportation equipment shall be sourced
2296 the same as a retail sale in accordance with the provisions of paragraph (1) of this

2297 subsection, notwithstanding the exclusion of lease or rental in paragraph (1) of this
 2298 subsection. As used in this paragraph, 'transportation equipment' means any of the
 2299 following:

2300 (A) Locomotives and railcars that are utilized for the carriage of persons or property
 2301 in interstate commerce.

2302 (B) Trucks and truck-tractors with a Gross Vehicle Weight Rating of 10,001 pounds
 2303 or greater, trailers, semitrailers, or passenger buses that are:

2304 (i) Registered through the International Registration Plan; and

2305 (ii) Operated under authority of a carrier authorized and certificated by the U.S.
 2306 Department of Transportation or another federal authority to engage in the carriage
 2307 of persons or property in interstate commerce.

2308 (C) Aircraft that are operated by air carriers authorized and certificated by the U.S.
 2309 Department of Transportation or another federal or a foreign authority to engage in the
 2310 carriage of persons or property in interstate or foreign commerce.

2311 (D) Containers designed for use on and component parts attached or secured on the
 2312 items set forth in subparagraph (A), (B), or (C) of this paragraph.

2313 (c) For the purposes of paragraph (1) of subsection (b) of this Code section, the terms
 2314 'receive' and 'receipt' mean:

2315 (1) Taking possession of tangible personal property;

2316 (2) Making first use of services; or

2317 (3) Taking possession or making first use of digital goods, whichever comes first.

2318 The terms 'receive' and 'receipt' shall not include possession by a shipping company on
 2319 behalf of the purchaser.

2320 (d)(1) Notwithstanding subsection (b) of this Code section, the following provisions shall
 2321 apply to sales of 'advertising and promotional direct mail':

2322 (A) A purchaser of 'advertising and promotional direct mail' may provide the seller
 2323 with either:

2324 (i) A direct pay permit;

2325 (ii) An agreement certificate of exemption claiming 'direct mail' or other written
 2326 statement approved, authorized, or accepted by the state; or

2327 (iii) Information showing the jurisdictions to which the 'advertising and promotional
 2328 direct mail' is to be delivered to recipients;

2329 (B) If the purchaser provides the permit, certificate, or statement referred to in
 2330 division (i) or (ii) of subparagraph (A) of this paragraph, the seller, in the absence of
 2331 bad faith, is relieved of all obligations to collect, pay, or remit any tax on any
 2332 transaction involving 'advertising and promotional direct mail' to which the permit,
 2333 certificate, or statement applies. The purchaser shall source the sale to the jurisdictions

2334 to which the 'advertising and promotional direct mail' is to be delivered to the recipients
 2335 and shall report and pay any applicable tax due;

2336 (C) If the purchaser provides the seller information showing the jurisdictions to which
 2337 the 'advertising and promotional direct mail' is to be delivered to recipients, the seller
 2338 shall source the sale to the jurisdictions to which the 'advertising and promotional direct
 2339 mail' is to be delivered and shall collect and remit the applicable tax. In the absence of
 2340 bad faith, the seller is relieved of any further obligation to collect any additional tax on
 2341 the sale of 'advertising and promotional direct mail' where the seller has sourced the
 2342 sale according to the delivery information provided by the purchaser; and

2343 (D) If the purchaser does not provide the seller with any of the items listed in
 2344 subparagraph (A) of this paragraph, the sale shall be sourced according to Section
 2345 310.A.5 of the Streamlined Sales and Use Tax Agreement. The state to which the
 2346 'advertising and promotional direct mail' is delivered may disallow credit for tax paid
 2347 on sales sourced under this paragraph.

2348 (2) Notwithstanding subsection (b) of this Code section, the following provisions shall
 2349 apply to sales of 'other direct mail':

2350 (A) Except as otherwise provided in this paragraph, sales of 'other direct mail' are
 2351 sourced in accordance with subparagraph (1)(1)(A) of this Code section;

2352 (B) A purchaser of 'other direct mail' may provide the seller with either:

2353 (i) A direct pay permit; or

2354 (ii) An agreement certificate of exemption claiming 'direct mail' or other written
 2355 statement approved, authorized, or accepted by the state; and

2356 (C) If the purchaser provides the permit, certificate, or statement referred to in
 2357 paragraph (1) or (2) of this subsection, the seller, in the absence of bad faith, is relieved
 2358 of all obligations to collect, pay or remit any tax on any transaction involving 'other
 2359 direct mail' to which the permit, certificate, or statement apply. Notwithstanding
 2360 paragraph (1) of this subsection, the sale shall be sourced to the jurisdictions to which
 2361 the 'other direct mail' is to be delivered to the recipients and the purchaser shall report
 2362 and pay applicable tax due.

2363 (3) For purposes of this subsection, the term:

2364 (A) 'Advertising and promotional direct mail' means:

2365 (i) Printed material that meets the definition of 'direct mail,' under Code Section
 2366 48-8-2;

2367 (ii) The primary purpose of which is to attract public attention to a product, person,
 2368 business, or organization, or to attempt to sell, popularize, or secure financial support
 2369 for a product, person, business, or organization. As used in this division, the term

2370 'product' means tangible personal property, a product transferred electronically or a
 2371 service.

2372 (B) 'Other direct mail' means any direct mail that is not 'advertising and promotional
 2373 direct mail' regardless of whether 'advertising and promotional direct mail' is included
 2374 in the same mailing. The term includes, but is not limited to:

2375 (i) Transactional direct mail that contains personal information specific to the
 2376 addressee including, but not limited to, invoices, bills, statements of account, and
 2377 payroll advices;

2378 (ii) Any legally required mailings including, but not limited to, privacy notices, tax
 2379 reports, and stockholder reports; and

2380 (iii) Other nonpromotional direct mail delivered to existing or former shareholders,
 2381 customers, employees, or agents including, but not limited to, newsletters and
 2382 informational messages.

2383 Other direct mail does not include the development of billing information or the
 2384 provision of any data processing service that is more than incidental.

2385 (4)(A)(i) This paragraph shall apply to a transaction characterized under this chapter
 2386 as the sale of services only if the service is an integral part of the production and
 2387 distribution of printed material that meets the definition of 'direct mail.'

2388 (ii) This paragraph shall not apply to any transaction that includes the development
 2389 of billing information or the provision of any data processing service that is more than
 2390 incidental regardless of whether 'advertising and promotional direct mail' is included
 2391 in the same mailing.

2392 (B) If a transaction is a 'bundled transaction' that includes 'advertising and promotion
 2393 direct mail,' this subsection shall apply only if the primary purpose of the transaction
 2394 is the sale of products or services that meet the definition of 'advertising and
 2395 promotional direct mail.'

2396 (C) Nothing in this paragraph shall limit any purchaser's:

2397 (i) Obligation for sales or use tax to any state to which the direct mail is delivered,
 2398 (ii) Right under local, state, federal, or constitutional law, to a credit for sales or use
 2399 taxes legally due and paid to other jurisdictions; or

2400 (iii) Right to a refund of sales or use taxes overpaid to any jurisdiction.

2401 (D) This subsection applies for purposes of uniformly sourcing 'direct mail'
 2402 transactions and does not otherwise impose requirements regarding the taxation of
 2403 products that meet the definition of 'direct mail' or to the application of sales for resale
 2404 or other exemptions.

2405 (e)(1) Except for the defined telecommunication services in paragraph (3) of this
 2406 subsection, the sale of telecommunication service sold on a call-by-call basis shall be
 2407 sourced to:

2408 (A) Each level of taxing jurisdiction where the call originates and terminates in that
 2409 jurisdiction; or

2410 (B) Each level of taxing jurisdiction where the call either originates or terminates and
 2411 in which the service address is also located.

2412 (2) Except for the defined telecommunication services in paragraph (3) of this
 2413 subsection, a sale of telecommunications services sold on a basis other than a call-by-call
 2414 basis, is sourced to the customer's place of primary use.

2415 (3) A sale of prepaid calling service or a sale of a prepaid wireless calling service is
 2416 sourced in accordance with subsection (b) of this Code section; provided, however, that
 2417 in the case of a sale of prepaid wireless calling service, the rule provided in
 2418 subparagraph (b)(1)(E) of this Code Section shall include as an option the location
 2419 associated with the mobile telephone number.

2420 (4) The sale of an ancillary service is sourced to the customer's place of primary use."

2421 **SECTION 19.**

2422 Said title is further amended by revising Code Section 48-8-82, relating to imposition of the
 2423 joint county and municipal sales and use tax, as follows:

2424 "48-8-82.

2425 When the imposition of a joint county and municipal sales and use tax is authorized
 2426 according to the procedures provided in this article within a special district, the county
 2427 whose geographical boundary is conterminous with that of the special district and each
 2428 qualified municipality located wholly or partially within the special district shall levy a
 2429 joint sales and use tax at the rate of 1 percent. Except as to rate, the joint tax shall
 2430 correspond to the tax imposed and administered by Article 1 of this chapter. No item or
 2431 transaction which is not subject to taxation by Article 1 of this chapter shall be subject to
 2432 the tax levied pursuant to this article, except that the joint tax provided in this article shall
 2433 be applicable to sales of motor fuels as prepaid local tax as that term is defined ~~by~~
 2434 ~~paragraph (5.1) of~~ in Code Section 48-8-2 and shall be applicable to the sale of food and
 2435 food ingredients and alcoholic beverages only to the extent provided for in paragraph (57)
 2436 of Code Section 48-8-3."

2437 **SECTION 20.**

2438 Said title is further amended by revising Code Section 48-8-87, relating to sales tax returns,
 2439 as follows:

2440 "48-8-87.
 2441 The tax levied pursuant to this article shall be exclusively administered and collected by
 2442 the commissioner for the use and benefit of each county whose geographical boundary is
 2443 conterminous with that of a special district and of each qualified municipality located
 2444 wholly or partially therein. Such administration and collection shall be accomplished in
 2445 the same manner and subject to the same applicable provisions, procedures, and penalties
 2446 provided in Article 1 of this chapter, except that the joint tax provided in this article shall
 2447 be applicable to sales of motor fuels as prepaid local tax as that term is defined by
 2448 ~~paragraph (5.1) of~~ in Code Section 48-8-2; provided, however, that all moneys collected
 2449 from each taxpayer by the commissioner shall be applied first to such taxpayer's liability
 2450 for taxes owed the state. Dealers shall be allowed a percentage of the amount of the tax
 2451 due and accounted for and shall be reimbursed in the form of a deduction in submitting,
 2452 reporting, and paying the amount due if such amount is not delinquent at the time of
 2453 payment. The deduction shall be at the rate and subject to the requirements specified under
 2454 subsections (b) through (f) of Code Section 48-8-50."

2455 **SECTION 21.**

2456 Said title is further amended by revising subsection (h) of Code Section 48-8-96, relating to
 2457 levy of the joint county and municipal sales and use tax by consolidated governments, as
 2458 follows:

2459 "(h)(1) In the case of increase from 1 percent to 2 percent, the amount in excess of the
 2460 initial 1 percent sales and use tax shall not apply to the ~~furnishing for value to the public~~
 2461 ~~of any room or rooms, lodgings, or accommodations which are subject to taxation under~~
 2462 ~~Article 3 of Chapter 13 of this title or to the sale of motor vehicles.~~

2463 (2) In the case of a newly imposed 2 percent sales and use tax under this Code section,
 2464 only the amount in excess of a 1 percent sales and use tax shall not apply to the ~~furnishing~~
 2465 ~~for value of any room or rooms, lodgings, or accommodations which are subject to tax~~
 2466 ~~under Article 3 of Chapter 13 of this title or to the sale of motor vehicles."~~

2467 **SECTION 22.**

2468 Said title is further amended by revising Code Section 48-8-102, relating to imposition of the
 2469 homestead option sales and use tax, as follows:

2470 "48-8-102.

2471 (a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the
 2472 Constitution of this state, there are created within this state 159 special districts. The
 2473 geographical boundary of each county shall correspond with and shall be conterminous
 2474 with the geographical boundary of one of the 159 special districts.

2475 (b) When the imposition of a local sales and use tax is authorized according to the
2476 procedures provided in this article within a special district, the county whose geographical
2477 boundary is conterminous with that of the special district shall levy a local sales and use
2478 tax at the rate of 1 percent. Except as to rate, the local sales and use tax shall correspond
2479 to the tax imposed and administered by Article 1 of this chapter. No item or transaction
2480 which is not subject to taxation by Article 1 of this chapter shall be subject to the sales and
2481 use tax levied pursuant to this article, except that the sales and use tax provided in this
2482 article shall be applicable to sales of motor fuels as prepaid local tax as that term is defined
2483 ~~by paragraph (5.1) of~~ in Code Section 48-8-2 and shall be applicable to the sale of food and
2484 food ingredients and alcoholic beverages only to the extent provided for in paragraph (57)
2485 of Code Section 48-8-3.

2486 (c)(1) Except as otherwise provided in paragraph (2) of this subsection, the proceeds of
2487 the sales and use tax levied and collected under this article shall be used only for the
2488 purposes of funding capital outlay projects and of funding services within a special
2489 district equal to the revenue lost to the homestead exemption as provided in Code Section
2490 48-8-104 and, in the event excess funds remain following the expenditure for such
2491 purposes, such excess funds shall be expended as provided in subparagraph (c)(2)(C) of
2492 Code Section 48-8-104.

2493 (2) Prior to January 1 of the year immediately following the first complete calendar year
2494 in which the sales and use tax under this article is imposed, such proceeds may be used
2495 for funding all or any portion of those services which are to be provided by the governing
2496 authority of the county whose geographic boundary is conterminous with that of the
2497 special district pursuant to and in accordance with Article IX, Section II, Paragraph III
2498 of the Constitution of this state.

2499 (d) Such sales and use tax shall only be levied in a special district following the enactment
2500 of a local Act which provides for a homestead exemption of an amount to be determined
2501 from the amount of sales and use tax collected under this article. Such exemption shall
2502 commence with taxable years beginning on or after January 1 of the year immediately
2503 following the first complete calendar year in which the sales and use tax under this article
2504 is levied. Any such local Act shall incorporate by reference the terms and conditions
2505 specified under this article. Any such local Act shall not be subject to the provisions of
2506 Code Section 1-3-4.1. Any such homestead exemption under this article shall be in
2507 addition to and not in lieu of any other homestead exemption applicable to county taxes for
2508 county purposes within the special district. Notwithstanding any provision of such local
2509 Act to the contrary, the referendum which shall otherwise be required to be conducted
2510 under such local Act shall only be conducted if the resolution required under subsection (a)
2511 of Code Section 48-8-103 is adopted prior to the issuance of the call for the referendum

2512 under the local Act by the election superintendent. If such ordinance is not adopted by that
 2513 date, the referendum otherwise required to be conducted under the local Act shall not be
 2514 conducted.

2515 (e) No sales and use tax shall be levied in a special district under this article in which a tax
 2516 is levied and collected under Article 2 of this chapter."

2517 **SECTION 23.**

2518 Said title is further amended in Code Section 48-8-104, relating to administration of the
 2519 homestead option sales and use tax, by revising subsection (a) as follows:

2520 "(a) The sales and use tax levied pursuant to this article shall be exclusively administered
 2521 and collected by the commissioner for the use and benefit of each county whose
 2522 geographical boundary is conterminous with that of a special district. Such administration
 2523 and collection shall be accomplished in the same manner and subject to the same applicable
 2524 provisions, procedures, and penalties provided in Article 1 of this chapter except that the
 2525 sales and use tax provided in this article shall be applicable to sales of motor fuels as
 2526 prepaid local tax as that term is defined by paragraph (5.1) of in Code Section 48-8-2;
 2527 provided, however, that all moneys collected from each taxpayer by the commissioner shall
 2528 be applied first to such taxpayer's liability for taxes owed the state. Dealers shall be
 2529 allowed a percentage of the amount of the sales and use tax due and accounted for and shall
 2530 be reimbursed in the form of a deduction in submitting, reporting, and paying the amount
 2531 due if such amount is not delinquent at the time of payment. The deduction shall be at the
 2532 rate and subject to the requirements specified under subsections (b) through (f) of Code
 2533 Section 48-8-50."

2534 **SECTION 24.**

2535 Said title is further amended by revising Code Section 48-8-110.1, relating to imposition of
 2536 the county special purpose local option sales tax, as follows:

2537 "48-8-110.1.

2538 (a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the
 2539 Constitution of this state, there are created within this state 159 special districts. The
 2540 geographical boundary of each county shall correspond with and shall be conterminous
 2541 with the geographical boundary of the 159 special districts.

2542 (b) When the imposition of a special district sales and use tax is authorized according to
 2543 the procedures provided in this part within a special district, the governing authority of any
 2544 county in this state may, subject to the requirement of referendum approval and the other
 2545 requirements of this part, impose within the special district a special sales and use tax for

2546 a limited period of time which tax shall be known as the county special purpose local
2547 option sales tax.

2548 (c) Any tax imposed under this part shall be at the rate of 1 percent. Except as to rate, a
2549 tax imposed under this part shall correspond to the tax imposed by Article 1 of this chapter.
2550 No item or transaction which is not subject to taxation under Article 1 of this chapter shall
2551 be subject to a tax imposed under this part, except that a tax imposed under this part shall
2552 apply to sales of motor fuels as prepaid local tax as that term is defined by ~~paragraph (5.1)~~
2553 ~~of in~~ Code Section 48-8-2 and shall be applicable to the sale of food and food ingredients
2554 and alcoholic beverages as provided for in ~~division (57)(D)(i)~~ of Code Section 48-8-3."

2555 **SECTION 25.**

2556 Said title is further amended by revising Code Section 48-8-113, relating to administration
2557 of the county special purpose local option sales and use tax, as follows:

2558 "48-8-113.

2559 A tax levied pursuant to this part shall be exclusively administered and collected by the
2560 commissioner for the use and benefit of the county and qualified municipalities within such
2561 special district imposing the tax. Such administration and collection shall be accomplished
2562 in the same manner and subject to the same applicable provisions, procedures, and
2563 penalties provided in Article 1 of this chapter except that the sales and use tax provided in
2564 this article shall be applicable to sales of motor fuels as prepaid local tax as that term is
2565 defined by ~~paragraph (5.1)~~ of ~~in~~ Code Section 48-8-2; provided, however, that all moneys
2566 collected from each taxpayer by the commissioner shall be applied first to such taxpayer's
2567 liability for taxes owed the state; and provided, further, that the commissioner may rely
2568 upon a representation by or in behalf of the county and qualified municipalities within the
2569 special district or the Secretary of State that such a tax has been validly imposed, and the
2570 commissioner and the commissioner's agents shall not be liable to any person for collecting
2571 any such tax which was not validly imposed. Dealers shall be allowed a percentage of the
2572 amount of the tax due and accounted for and shall be reimbursed in the form of a deduction
2573 in submitting, reporting, and paying the amount due if such amount is not delinquent at the
2574 time of payment. The deduction shall be at the rate and subject to the requirements
2575 specified under subsections (b) through (f) of Code Section 48-8-50."

2576 **SECTION 26.**

2577 Said title is further amended by revising Code Section 48-8-161, relating to definitions
2578 regarding the Streamlined Sales and Use Tax Agreement, as follows:

2579 "48-8-161.

2580 As used in this article, the term:

- 2581 (1) 'Agent' means a person appointed by a seller to represent the seller before the
 2582 member states.
- 2583 ~~(1)~~(2) 'Agreement' means the Streamlined Sales and Use Tax Agreement.
- 2584 ~~(2)~~(3) 'Certified automated system' means software certified jointly by the states that are
 2585 signatories to the agreement to calculate the tax imposed by each jurisdiction on a
 2586 transaction, determine the amount of tax to remit to the appropriate state, and maintain
 2587 a record of the transaction.
- 2588 ~~(3)~~(4) 'Certified service provider' means an agent certified jointly by the states that are
 2589 signatories to the agreement to perform all of the seller's sales tax functions.
- 2590 (5) 'Model 1 seller' means a seller registered under the agreement that has selected a
 2591 certified service provider as its agent to perform all the seller's sales and use tax
 2592 functions, other than the seller's obligation to remit tax on its own purchases.
- 2593 (6) 'Model 2 seller' means a seller registered under the agreement that has selected a
 2594 certified automated system to perform part of its sales and use tax functions, but retains
 2595 responsibility for remitting the tax.
- 2596 (7) 'Model 3 seller' means seller registered under the agreement that has sales in at least
 2597 five member states, has total annual sales revenue of at least five hundred million dollars,
 2598 has a proprietary system that calculates the amount of tax due each jurisdiction, and has
 2599 entered into a performance agreement with the member states that establishes a tax
 2600 performance standard for the seller. As used in this definition, a seller includes an
 2601 affiliated group of sellers using the same proprietary system.
- 2602 (8) 'Model 4 seller' means a seller that is not a 'Model 1 seller', a 'Model 2 seller', or a
 2603 'Model 3 seller.'
- 2604 ~~(4)~~(9) 'Person' means an individual, trust, estate, fiduciary, partnership, limited liability
 2605 company, limited liability partnership, corporation, or any other legal entity.
- 2606 ~~(5)~~(10) 'Sales tax' means the taxes levied under this chapter.
- 2607 ~~(6)~~(11) 'Seller' means any person making sales, leases, or rentals of personal property or
 2608 services.
- 2609 ~~(7)~~(12) 'State' means any state of the United States, and the District of Columbia, and the
 2610 Commonwealth of Puerto Rico.
- 2611 ~~(8)~~(13) 'Use tax' means the taxes levied under this chapter."

2612

SECTION 27.

2613 Said title is further amended by adding a new Code section to read as follows:

2614 "48-7-167.

2615 The Georgia members of the Streamlined Sales Tax Governing Board shall be a member
 2616 of the House of Representatives appointed by the Speaker of the House of Representatives,

2617 a member of the Senate appointed by the President Pro Tempore of the Senate, and a
 2618 designee of the commissioner."

2619 **SECTION 28.**

2620 Said title is further amended in Code Section 48-8-200, relating to definitions regarding the
 2621 water and sewer projects and costs tax, by revising paragraph (2) as follows:

2622 "(2) 'Dealer' means a dealer as defined in ~~paragraph (3)~~ of Code Section 48-8-2."

2623 **SECTION 29.**

2624 Said title is further amended by revising Code Section 48-8-201, relating to
 2625 intergovernmental contract for distribution of municipal option water and sewer projects and
 2626 costs tax proceeds, as follows:

2627 "48-8-201.

2628 (a)(1) In any county in which the provisions of paragraph (2) of subsection ~~(b)~~ (a) of
 2629 Code Section 48-8-6 will be applicable if the tax under Part 1 of Article 3 of this chapter
 2630 is imposed pursuant to subparagraph (a)(1)(D) of Code Section 48-8-111 in whole or in
 2631 part for the purpose or purposes of a water capital outlay project or projects, a sewer
 2632 capital outlay project or projects, a water and sewer capital outlay project or projects, or
 2633 a combination of such projects, the governing authority of a municipality, the majority
 2634 of which is located wholly or partially in such county, may deliver or mail a written copy
 2635 of a resolution of such municipal governing authority calling for the imposition by the
 2636 county of the tax under Part 1 of Article 3 of this chapter pursuant to subparagraph
 2637 (a)(1)(D) of Code Section 48-8-111 in whole or in part for the purpose or purposes of a
 2638 water capital outlay project or projects, a sewer capital outlay project or projects, a water
 2639 and sewer capital outlay project or projects, water and sewer projects and costs, or any
 2640 combination thereof.

2641 (2) Within ten days following the date of delivery of such resolution to the governing
 2642 authority of such county, the governing authorities of such county and municipality may
 2643 enter into an intergovernmental contract as authorized by Article IX, Section III of the
 2644 Constitution which shall specify the allocation of the proceeds of the tax between such
 2645 county and municipality according to the ratio the population of such municipality bears
 2646 to the population of such county according to the United States decennial census of 2000
 2647 or any future such census so that such municipality's share of the total net proceeds shall
 2648 be the percentage of the total population of such municipality divided by the total
 2649 population of such county. Such intergovernmental contract shall specify that the
 2650 proceeds allocated to the municipality shall only be expended for water and sewer
 2651 projects and costs.

2652 (3) Immediately following the entering into of the intergovernmental contract under
 2653 paragraph (2) of this subsection, the governing authority of such county may select the
 2654 next practicable date authorized under Code Section 21-2-540 for conducting a special
 2655 election on the question of imposing such tax under Part 1 of Article 3 of this chapter.
 2656 The governing authority of such county shall notify the county election superintendent
 2657 by forwarding to the superintendent a copy of the resolution of the governing authority
 2658 of such municipality calling for the imposition of the tax in such county. Following
 2659 receipt of the resolution, the election superintendent shall issue the appropriate call for
 2660 an election for the purpose of submitting the question of the imposition of the tax to the
 2661 voters of such county in the manner specified in Code Section 48-8-111. If approved in
 2662 such referendum, the tax shall be levied and imposed as provided in this Code section and
 2663 Part 1 of Article 3 of this chapter.

2664 (b) If the governing authority of the county takes no action under paragraph (2) or (3) of
 2665 subsection (a) of this Code section, it shall provide notice thereof by resolution to the
 2666 governing authority of the municipality not later than ten days following the date of
 2667 delivery of such municipality's resolution to the county under subsection (a) of this Code
 2668 section. Upon receipt by the governing authority of the municipality of such county
 2669 resolution or if timely notice of no action is not provided by the governing authority of the
 2670 county to the governing authority of the municipality or if the county referendum is
 2671 conducted but is not approved by the voters, the governing authority of any municipality
 2672 in this state may, subject to the requirement of referendum approval and the other
 2673 requirements of this article, immediately commence proceedings to seek to impose within
 2674 the municipality a special sales and use tax for a limited period of time for the purpose of
 2675 funding water and sewer projects and costs. Any tax imposed under this article shall be at
 2676 the rate of 1 percent. Except as otherwise provided in this article, a tax imposed under this
 2677 article shall correspond to the tax imposed by Article 1 of this chapter.

2678 (c) In the event a tax imposed under this article is imposed only by the municipality:

2679 (1) No item or transaction which is not subject to taxation under Article 1 of this chapter
 2680 shall be subject to a tax imposed under this article, except that a tax imposed under this
 2681 article shall apply to:

2682 (A) Sales of motor fuels as prepaid local tax as that term is defined by ~~paragraph (5.1)~~
 2683 ~~of in~~ Code Section 48-8-2;

2684 (B) The sale of food and food ingredients and alcoholic beverages as provided for in
 2685 ~~division (57)(D)(i) of~~ Code Section 48-8-3;

2686 (C) The sale of natural or artificial gas used directly in the production of electricity
 2687 which is subsequently sold, notwithstanding paragraph (70) of Code Section 48-8-3;
 2688 and

2689 (D) The furnishing for value to the public of any room or rooms, lodgings, or
 2690 accommodations which is subject to taxation under Article 3 of Chapter 13 of this title;
 2691 and

2692 (2) A tax imposed under this article shall not apply to the sale of motor vehicles.

2693 (d) On and after July 1, 2007, the aggregate amount of all excise taxes imposed under
 2694 paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and use taxes shall
 2695 not exceed 14 percent."

2696 **SECTION 30.**

2697 Said title is further amended by revising Code Section 48-8-203, relating to imposition of the
 2698 municipal option water and sewer projects and costs tax, as follows:

2699 "48-8-203.

2700 (a)(1) If the imposition of the tax is approved by referendum, the tax shall be imposed
 2701 on the first day of the next succeeding calendar quarter which begins more than ~~70~~ 80
 2702 days after the date of the election at which the tax was approved by the voters.

2703 (2) With respect to services which are regularly billed on a monthly basis, however, the
 2704 resolution or ordinance imposing the tax shall become effective with respect to and the
 2705 tax shall apply to the first regular billing period coinciding with or following the effective
 2706 date specified in paragraph (1) of this subsection. A certified copy of the ordinance or
 2707 resolution imposing the tax shall be forwarded to the commissioner so that it will be
 2708 received within five business days after certification of the election results.

2709 (b) The tax shall cease to be imposed on the earliest of the following dates:

2710 (1) If the resolution or ordinance calling for the imposition of the tax provided for the
 2711 issuance of general obligation debt and such debt is the subject of validation proceedings,
 2712 as of the end of the first calendar quarter ending more than 80 days after the date on
 2713 which a court of competent jurisdiction enters a final order denying validation of such
 2714 debt;

2715 (2) On the final day of the maximum period of time specified for the imposition of the
 2716 tax; or

2717 (3) As of the end of the calendar quarter during which the commissioner determines that
 2718 the tax will have raised revenues sufficient to provide to the municipality net proceeds
 2719 equal to or greater than the amount specified as the maximum amount of net proceeds to
 2720 be raised by the tax.

2721 (c)(1) No municipality shall impose at any time more than a single 1 percent tax under
 2722 this article.

2723 (2) A municipality in which a tax authorized by this article is in effect may, while the tax
 2724 is in effect, adopt a resolution or ordinance calling for a reimposition of a tax as

2725 authorized by this article upon the termination of the tax then in effect; and a referendum
 2726 may be held for this purpose while the tax is in effect. Proceedings for such reimposition
 2727 shall not be conducted more than two times; shall be in the same manner as proceedings
 2728 for the initial imposition of the tax as provided for in Code Section 48-8-202 and shall be
 2729 solely within the discretion of the governing authority of the municipality without regard
 2730 to any requirement of county participation otherwise specified under subsection (a) of
 2731 Code Section 48-8-201. Such newly authorized tax shall not be imposed until the
 2732 expiration of the tax then in effect; provided, however, that in the event of emergency
 2733 conditions under which a municipality is unable to conduct a referendum so as to
 2734 continue the tax then in effect without interruption, the commissioner may, if feasible
 2735 administratively, waive the limitations of subsection (a) of this Code section to the
 2736 minimum extent necessary so as to permit the reimposition of a tax, if otherwise
 2737 approved as required under this Code section, without interruption, upon the expiration
 2738 of the tax then in effect.

2739 (3) Following the expiration of a tax under this article which has been renewed two times
 2740 under paragraph (2) of this subsection, a municipality shall not be authorized to initiate
 2741 proceedings for the reimposition of a tax under this article or to reimpose such tax."

2742 **SECTION 31.**

2743 Said title is further amended by revising Code Section 48-8-204, relating to administration
 2744 of the water and sewer projects and costs tax, as follows:

2745 "48-8-204.

2746 A tax levied pursuant to this article shall be exclusively administered and collected by the
 2747 commissioner for the use and benefit of the municipality imposing the tax. Such
 2748 administration and collection shall be accomplished in the same manner and subject to the
 2749 same applicable provisions, procedures, and penalties provided in Article 1 of this chapter
 2750 except that the sales and use tax provided in this article shall be applicable to sales of motor
 2751 fuels as prepaid local tax as that term is defined by ~~paragraph (5.1) of~~ in Code Section
 2752 48-8-2; provided, however, that all moneys collected from each taxpayer by the
 2753 commissioner shall be applied first to such taxpayer's liability for taxes owed the state; and
 2754 provided, further, that the commissioner may rely upon a representation by or in behalf of
 2755 the municipality or the Secretary of State that such a tax has been validly imposed, and the
 2756 commissioner and the commissioner's agents shall not be liable to any person for collecting
 2757 any such tax which was not validly imposed. Dealers shall be allowed a percentage of the
 2758 amount of the tax due and accounted for and shall be reimbursed in the form of a deduction
 2759 in submitting, reporting, and paying the amount due if such amount is not delinquent at the

2760 time of payment. The deduction shall be at the rate and subject to the requirements
2761 specified under subsections (b) through (f) of Code Section 48-8-50."

2762 **SECTION 32.**

2763 Title 50 of Official Code of Georgia Annotated, relating to state government, is amended in
2764 Code Section 50-5-82, relating to limitations on contracting for goods, by revising
2765 subsection (b) as follows:

2766 "(b) On or after May 13, 2004, the Department of Administrative Services and any other
2767 state agency to which this article applies shall not enter into a state-wide contract or agency
2768 contract for goods or services, or both, in an amount exceeding \$100,000.00 with a
2769 nongovernmental vendor if the vendor or an affiliate of the vendor is a dealer as defined
2770 in ~~paragraph (3)~~ of Code Section 48-8-2, or meets one or more of the conditions
2771 thereunder, but fails or refuses to collect sales or use taxes levied under Chapter 8 of Title
2772 48 on its sales delivered to Georgia."

2773 **SECTION 33.**

2774 This Act shall become effective on January 1, 2011.

2775 **SECTION 34.**

2776 All laws and parts of laws in conflict with this Act are repealed.