

The Special Joint Committee on Georgia Revenue Structure offers the following substitute to HB 388:

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 48, 2, 36, and 46 of the Official Code of Georgia Annotated, relating
2 respectively, to revenue and taxation, agriculture, local government, and public utilities, so
3 as to provide for comprehensive revision of personal income taxes; to redefine taxable net
4 income; to provide for a flat rate tax structure; to change certain adjustments to income; to
5 provide for procedures, conditions, and limitations; to revise comprehensively certain
6 provision regarding low-income tax credits; to change and provide for sales and use tax
7 definitions; to change and provide for sales and use tax exemptions; to provide for the
8 comprehensive revision of exemptions from sales and use taxes; to provide for the repeal of
9 certain exemptions at various points in time; to provide for the sales and use taxation of
10 certain services; to provide for conforming amendments; to provide for an exemption for
11 sales to, or use by, a qualified agriculture producer of agricultural production inputs, energy
12 used in agriculture, and agricultural machinery and equipment; to provide for definitions; to
13 provide for procedures, conditions, and limitations; to provide for powers, duties, and
14 authority of the Commissioner of Agriculture; to provide for qualified agriculture producer
15 annual license fees; to provide for a new exemption regarding the sale, use, storage, or
16 consumption of machinery or equipment which is necessary and integral to the manufacture
17 of tangible personal property and the sale, use, storage, or consumption of energy, industrial
18 materials, or packaging supplies; to provide for definitions; to provide for procedures,
19 conditions, and limitations; to provide that every purchaser of certain tangible personal
20 property which is or which is required to be titled or registered by or in this state shall be
21 liable for sales and use tax on the purchase; to provide for requirements, procedures,
22 conditions, and limitations; to provide for consolidated and simplified state and local excise
23 taxes on communications services in lieu of certain other state or local taxes, charges, or fees
24 on such services; to provide for legislative findings and intent; to provide for a short title; to
25 provide for sales and use tax exemption for certain products and services; to provide for
26 comprehensive procedures, conditions, and limitations; to provide for powers, duties, and
27 authority of the Department of Revenue and the state revenue commissioner; to amend
28 certain titles of the Official Code of Georgia Annotated so as to correct certain

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29 cross-references and make conforming changes; to provide for effective dates; to provide for
30 applicability; to provide that certain provisions of this Act shall not abate or affect
31 prosecutions, punishments, penalties, administrative proceedings or remedies, or civil actions
32 related to certain violations; to provide for related matters; to repeal conflicting laws; and for
33 other purposes.

34 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

35 **PART I**
36 **SECTION 1-1.**

37 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
38 amended by revising Code Section 48-7-20, relating to individual tax rates and tables, as
39 follows:

40 "48-7-20.

41 (a) A tax is imposed upon every resident of this state with respect to the Georgia taxable
42 net income of the taxpayer as defined in Code Section 48-7-27. A tax is imposed upon
43 every nonresident with respect to such nonresident's Georgia taxable net income not
44 otherwise exempted which is received by the taxpayer from services performed, property
45 owned, proceeds of any lottery prize awarded by the Georgia Lottery Corporation, or from
46 business carried on in this state. Except as otherwise provided in this chapter, the tax
47 imposed by this subsection shall be levied, collected, and paid annually.

48 (b)~~(1)~~ For taxable years beginning prior to January 1, 2012:

49 (1) The tax imposed pursuant to subsection (a) of this Code section shall be computed
50 in accordance with the following tables:

51 **SINGLE PERSON**

If Georgia Taxable Net Income Is:	The Tax Is:
Not over \$750.00	1%
Over \$750.00 but not over \$2,250.00	\$7.50 plus 2% of amount over \$750.00
Over \$2,250.00 but not over \$3,750.00	\$37.50 plus 3% of amount over \$2,250.00
Over \$3,750.00 but not over \$5,250.00	\$82.50 plus 4% of amount over \$3,750.00

58 Over \$5,250.00 but not over \$7,000.00 \$142.50 plus 5% of amount over
 \$5,250.00
 59 Over \$7,000.00 \$230.00 plus 6% of amount over
 \$7,000.00

60 MARRIED PERSON FILING A SEPARATE RETURN

61 If Georgia Taxable The Tax Is:
 62 Net Income Is:
 63 Not over \$500.00 1%
 64 Over \$500.00 but not over \$1,500.00 \$5.00 plus 2% of amount over \$500.00
 65 Over \$1,500.00 but not over \$2,500.00 \$25.00 plus 3% of amount over
 \$1,500.00
 66 Over \$2,500.00 but not over \$3,500.00 \$55.00 plus 4% of amount over
 \$2,500.00
 67 Over \$3,500.00 but not over \$5,000.00 \$95.00 plus 5% of amount over
 \$3,500.00
 68 Over \$5,000.00 \$170.00 plus 6% of amount over
 \$5,000.00

69 HEAD OF HOUSEHOLD AND MARRIED PERSONS
 70 FILING A JOINT RETURN

71 If Georgia Taxable The Tax Is:
 72 Net Income Is:
 73 Not over \$1,000.00 1%
 74 Over \$1,000.00 but not over \$3,000.00 \$10.00 plus 2% of amount over
 \$1,000.00
 75 Over \$3,000.00 but not over \$5,000.00 \$50.00 plus 3% of amount over
 \$3,000.00
 76 Over \$5,000.00 but not over \$7,000.00 \$110.00 plus 4% of amount over
 \$5,000.00
 77 Over \$7,000.00 but not over \$10,000.00 \$190.00 plus 5% of amount over
 \$7,000.00

78 Over \$10,000.00\$340.00 plus 6% of amount over
\$10,000.00

79 (2) To facilitate the computation of the tax by those taxpayers whose federal adjusted
80 gross income together with the adjustments set out in Code Section 48-7-27 for use in
81 arriving at Georgia taxable net income is less than \$10,000.00, the commissioner may
82 construct tax tables which may be used by the taxpayers at their option. The tax shown
83 to be due by the tables shall be computed on the bases of the standard deduction and the
84 tax rates specified in paragraph (1) of this subsection. Insofar as practicable, the tables
85 shall produce a tax approximately equivalent to the tax imposed by paragraph (1) of this
86 subsection.

87 (c) For taxable years beginning on or after January 1, 2012, and prior to January 1, 2013,
88 the tax imposed pursuant to subsection (a) of this Code section shall be the amount
89 determined by multiplying the Georgia taxable net income of the taxpayer by 4.6 percent.

90 (d) For taxable years beginning on or after January 1, 2013, the tax imposed pursuant to
91 subsection (a) of this Code section shall be the amount determined by multiplying the
92 Georgia taxable net income of the taxpayer by 4.55 percent.

93 ~~(e)~~(e) The amount deducted and withheld by an employer from the wages of an employee
94 pursuant to Article 5 of this chapter, relating to current income tax payments, shall be
95 allowed the employee as a credit against the tax imposed by this Code section. Amounts
96 paid by an individual as estimated tax under Article 5 of this chapter shall constitute
97 payments on account of the tax imposed by this Code section. The amount withheld or paid
98 during any calendar year shall be allowed as a credit or payment for the taxable year
99 beginning in the calendar year in which the amount is withheld or paid.

100 ~~(d)~~(f) The tax imposed by this Code section applies to the Georgia taxable net income of
101 estates and trusts, which shall be computed in the same manner as in the case of a single
102 individual. The tax shall be computed on the Georgia taxable net income and shall be paid
103 by the fiduciary."

104 **SECTION 1-2.**

105 Said Title 48 is further amended by revising Code Section 48-7-26, relating to personal
106 exemptions, as follows:

107 "48-7-26.

108 (a) As used in this Code section, the term 'dependent' shall have the same meaning as in
109 the Internal Revenue Code of 1986.

110 ~~(b)(1) An exemption of \$5,400.00 shall be allowed as a deduction in computing Georgia~~
111 ~~taxable income of a taxpayer and spouse, but only if a joint return is filed. As used in this~~
112 ~~subsection, the term 'Georgia adjusted gross income' means the federal adjusted gross~~

113 income of the taxpayer with the adjustments provided by this chapter, except for the
 114 adjustment provided by this Code section, except for the adjustment for itemized
 115 nonbusiness deductions provided by paragraph (1) of subsection (b) of Code Section
 116 48-7-27, and except for the adjustments to such itemized nonbusiness deductions for any
 117 income taxes imposed by any tax jurisdiction except the State of Georgia and for
 118 investment interest expense for the production of income exempt from Georgia tax.

119 ~~(2) An exemption of \$2,700.00 shall be allowed as a deduction in computing Georgia~~
 120 ~~taxable income for each taxpayer other than a taxpayer who files a joint return.~~

121 ~~(3)(A) For taxable years beginning on or after January 1, 1994, and prior to January 1,~~
 122 ~~1995, an exemption of \$2,000.00 for each dependent of a taxpayer shall be allowed as~~
 123 ~~a deduction in computing Georgia taxable income of the taxpayer.~~

124 ~~(B) For taxable years beginning on or after January 1, 1995, and prior to January 1,~~
 125 ~~1998, an exemption of \$2,500.00 for each dependent of a taxpayer shall be allowed as~~
 126 ~~a deduction in computing Georgia taxable income of the taxpayer.~~

127 ~~(C) For taxable years beginning on or after January 1, 1998, an exemption of \$2,700.00~~
 128 ~~for each dependent of a taxpayer shall be allowed as a deduction in computing Georgia~~
 129 ~~taxable income of the taxpayer.~~

130 ~~(4) Commencing with the taxable year beginning January 1, 2003,~~

131 ~~(2) For taxable years beginning prior to January 1, 2012, an exemption of \$3,000.00 for~~
 132 ~~each dependent of a taxpayer shall be allowed as a deduction in computing Georgia~~
 133 ~~taxable income of the taxpayer.~~

134 ~~(3) For taxable years beginning on or after January 1, 2012, an exemption for each~~
 135 ~~dependent of a taxpayer shall be allowed as a deduction in computing Georgia taxable~~
 136 ~~income of the taxpayer as follows:~~

137 ~~(A) For a taxpayer whose Georgia adjusted gross income is not over \$60,000.00, an~~
 138 ~~exemption of \$5,300.00;~~

139 ~~(B) For a taxpayer whose Georgia adjusted gross income is over \$60,000.00 but not~~
 140 ~~over \$70,000.00, an exemption of \$3,650.00;~~

141 ~~(C) For a taxpayer whose Georgia adjusted gross income is over \$70,000.00 but not~~
 142 ~~over \$200,000.00, an exemption of \$2,000.00; or~~

143 ~~(D) For a taxpayer whose Georgia adjusted gross income is over \$200,000.00, no~~
 144 ~~dependent exemption shall be allowed.~~

145 (c) No exemption shall be allowed under this Code section for any dependent who has
 146 made a joint return with such dependent's spouse for the taxable year beginning in the
 147 calendar year in which the taxable year of the taxpayer begins.

148 ~~(d) A deduction in lieu of a personal exemption deduction shall be allowed an estate or a~~
 149 ~~trust as follows:~~

150 ~~(1) An estate - \$2,700.00; and~~

151 ~~(2) A trust - \$1,350.00."~~

152 **SECTION 1-3.**

153 Said Title 48 is further amended by revising Code Section 48-7-27, relating to computation
154 of Georgia taxable net income, as follows:

155 "48-7-27.

156 (a) This Code section shall apply to all taxable years beginning on or after January 1, 2012.

157 (b) Georgia taxable net income of an individual shall be the taxpayer's federal adjusted
158 gross income, as defined in the United States Internal Revenue Code of 1986, less:

159 (1) ~~The Either~~ the sum of all itemized nonbusiness deductions used in computing federal
160 taxable income if the taxpayer used itemized nonbusiness deductions in computing
161 federal taxable income, subject to the following limitations: ~~or, if the taxpayer could not~~
162 ~~or did not itemize nonbusiness deductions, then a standard deduction as provided for in~~
163 ~~the following subparagraphs:~~

164 (A) ~~In the case of a single taxpayer or a head of household, \$2,300.00;~~

165 (B) ~~In the case of a married taxpayer filing a separate return, \$1,500.00;~~

166 (C) ~~In the case of a married couple filing a joint return, \$3,000.00;~~

167 (D) ~~An additional deduction of \$1,300.00 for the taxpayer if the taxpayer has attained~~
168 ~~the age of 65 before the close of the taxpayer's taxable year. An additional deduction~~
169 ~~of \$1,300.00 for the spouse of the taxpayer shall be allowed if a joint return is made by~~
170 ~~the taxpayer and the taxpayer's spouse and the spouse has attained the age of 65 before~~
171 ~~the close of the taxable year; and~~

172 (E) ~~An additional deduction of \$1,300.00 for the taxpayer if the taxpayer is blind at the~~
173 ~~close of the taxable year. An additional deduction of \$1,300.00 for the spouse of the~~
174 ~~taxpayer shall be allowed if a joint return is made by the taxpayer and the taxpayer's~~
175 ~~spouse and the spouse is blind at the close of the taxable year. For the purposes of this~~
176 ~~subparagraph, the determination of whether the taxpayer or the spouse is blind shall be~~
177 ~~made at the close of the taxable year except that, if either the taxpayer or the spouse~~
178 ~~dies during the taxable year, the determination shall be made as of the time of the death;~~

179 (A)(i)(I) Taxpayers filing single or married filing separate whose Georgia adjusted
180 gross income does not exceed \$37,500.00 may reduce their taxable income by
181 claiming the amount of all itemized nonbusiness deductions used in computing
182 federal taxable income or \$15,000.00, whichever is less.

183 (II) Taxpayers filing single or married filing separate whose Georgia adjusted gross
184 income exceeds \$37,500.00 but does not exceed \$80,000.00 may reduce their

185 taxable income by claiming the amount of all itemized nonbusiness deductions used
186 in computing federal taxable income or \$8,500.00, whichever is less; or
187 (ii) For a taxpayer filing single or married filing separate whose Georgia adjusted
188 gross income exceeds the amount specified in subdivision (II) of division (i) of this
189 subparagraph, the authorized maximum deduction amounts shall be reduced dollar for
190 dollar as Georgia adjusted gross income increases above the limits specified in
191 subdivision (II) of division (i) of this subparagraph. As an example of such dollar for
192 dollar reduction, a taxpayer whose Georgia adjusted gross income equals \$80,001.00
193 may deduct the amount of itemized nonbusiness deductions used in computing federal
194 taxable income or \$8,499.00, whichever is less. A taxpayer whose Georgia adjusted
195 gross income is \$88,500.00 or more shall not be authorized to claim and be allowed
196 itemized nonbusiness deductions.

197 (B)(i)(I) Married taxpayers filing jointly or taxpayers filing head of household
198 whose Georgia adjusted gross income does not exceed \$75,000.00 may reduce their
199 taxable income by claiming the amount of all itemized nonbusiness deductions used
200 in computing federal taxable income or \$30,000.00, whichever is less.

201 (II) Married taxpayers filing jointly or taxpayers filing head of household whose
202 Georgia adjusted gross income exceeds \$75,000.00 but does not exceed
203 \$160,000.00 may reduce their taxable income by claiming the amount of all
204 itemized nonbusiness deductions used in computing federal taxable income or
205 \$17,000.00, whichever is less.

206 (ii) For a married taxpayer filing jointly or taxpayers filing head of household whose
207 Georgia adjusted gross income exceeds the amount specified in subdivision (II) of
208 division (i) of this subparagraph, the authorized maximum deduction amounts shall
209 be reduced dollar for dollar as Georgia adjusted gross income increases above the
210 limits specified in subdivision (II) of division (i) of this subparagraph. As an example
211 of such dollar for dollar reduction, a married taxpayer filing jointly whose Georgia
212 adjusted gross income equals \$160,001.00 may deduct the amount of itemized
213 nonbusiness deductions used in computing Georgia taxable income or \$16,999.00,
214 whichever is less. A married taxpayer filing jointly whose Georgia adjusted gross
215 income is \$177,000.00 or more shall not be authorized to claim and be allowed
216 itemized nonbusiness deductions.

217 (C) The limitations of subparagraphs (A) and (B) of this paragraph shall not apply to
218 unreimbursed employee business expenses which exceed the 2 percent federal adjusted
219 gross income threshold in an amount that exceeds \$2,500.00 which are claimed by and
220 allowed the taxpayer in computing federal taxable income; provided, however, in no

221 event shall the amount claimed and allowed for state income tax purposes under this
 222 subparagraph exceed \$8,000.00.

223 (D) A taxpayer moving into the state or moving out of the state shall determine the
 224 amount allowed as if such taxpayer was a resident of this state for the entire year and
 225 then prorate the amount allowed as provided in Code Section 48-7-85.

226 (E) A nonresident taxpayer shall determine the amount allowed as if such taxpayer was
 227 a resident of this state for the entire year and then prorate, the amount allowed pursuant
 228 to this paragraph and Code Section 48-7-30, as provided in Code Section 48-7-30.

229 (F) As used in this paragraph, the term 'Georgia adjusted gross income' means the
 230 federal adjusted gross income of the taxpayer with the adjustments provided by this
 231 chapter, except for the adjustment provided by Code Section 48-7-26, except for the
 232 adjustment for itemized nonbusiness deductions provided by this paragraph, and except
 233 for the adjustments to such itemized nonbusiness deductions for any income taxes
 234 imposed by any tax jurisdiction except the State of Georgia and for investment interest
 235 expense for the production of income exempt from Georgia tax;

236 (2) The exemptions provided for in Code Section 48-7-26 together with the adjustments
 237 provided for in subsection ~~(b)~~ (c) of this Code section;

238 (3)(A) The amount of salary and wage expenses eliminated in computing the
 239 individual's federal adjusted gross income because the individual has taken a federal
 240 jobs tax credit which requires, as a condition to using the federal jobs tax credit, the
 241 elimination of related salary and wage expenses.

242 (B) The amount of mortgage interest eliminated from federal itemized deductions for
 243 the purpose of computing mortgage interest credit on the federal return;

244 (4)(A) Income received from public pension or retirement funds, programs, or systems
 245 the income from which is exempted by federal law or treaty when the income is
 246 otherwise included in the taxpayer's federal adjusted gross income.

247 (B) Except as specifically provided in subparagraph (A) of this paragraph,
 248 paragraph (5) of this subsection, and paragraph (7) of this subsection, ~~for taxable years~~
 249 ~~beginning on or after January 1, 1989~~, no income from a public pension or retirement
 250 fund, program, or system (including those pension or retirement funds, programs, or
 251 systems provided for in Title 47) shall be exempt from income taxation in this state,
 252 notwithstanding any provision of Title 47 or any other provision of law to the contrary;

253 (5)(A) Retirement income otherwise included in Georgia taxable net income shall be
 254 subject to an exclusion amount as follows:

255 (i) For taxable years beginning on or after January 1, 1989, and prior to January 1,
 256 1990, retirement income not to exceed an exclusion amount of \$8,000.00 per year
 257 received from any source;

- 258 (ii) For taxable years beginning on or after January 1, 1990, and prior to January 1,
 259 1994, retirement income not to exceed an exclusion amount of \$10,000.00 per year
 260 received from any source;
- 261 (iii) For taxable years beginning on or after January 1, 1994, and prior to January 1,
 262 1995, retirement income from any source not to exceed an exclusion amount of
 263 \$11,000.00;
- 264 (iv) For taxable years beginning on or after January 1, 1995, and prior to
 265 January 1, 1999, retirement income from any source not to exceed an exclusion
 266 amount of \$12,000.00;
- 267 (v) For taxable years beginning on or after January 1, 1999, and prior to January 1,
 268 2000, retirement income from any source not to exceed an exclusion amount of
 269 \$13,000.00;
- 270 (vi) For taxable years beginning on or after January 1, 2000, and prior to January 1,
 271 2001, retirement income not to exceed an exclusion amount of \$13,500.00 per year
 272 received from any source;
- 273 (vii) For taxable years beginning on or after January 1, 2001, and prior to January 1,
 274 2002, retirement income from any source not to exceed an exclusion amount of
 275 \$14,000.00;
- 276 (viii) For taxable years beginning on or after January 1, 2002, and prior to January
 277 1, 2003, retirement income from any source not to exceed an exclusion amount of
 278 \$14,500.00;
- 279 (ix) For taxable years beginning on or after January 1, 2003, and prior to January 1,
 280 2006, retirement income from any source not to exceed an exclusion amount of
 281 \$15,000.00;
- 282 (x) For taxable years beginning on or after January 1, 2006, and prior to January 1,
 283 2007, retirement income from any source not to exceed an exclusion amount of
 284 \$25,000.00;
- 285 (xi) For taxable years beginning on or after January 1, 2007, and prior to January 1,
 286 2008, retirement income from any source not to exceed an exclusion amount of
 287 \$30,000.00; and
- 288 (xii) For taxable years beginning on or after January 1, 2008, ~~and prior to January 1,~~
 289 ~~2012,~~ retirement income from any source not to exceed an exclusion amount of
 290 \$35,000.00;
- 291 ~~(xiii) For taxable years beginning on or after January 1, 2012, and prior to January~~
 292 ~~1, 2013, retirement income from any source not to exceed an exclusion amount of~~
 293 ~~\$35,000.00 for each taxpayer meeting the eligibility requirement set forth in division~~
 294 ~~(i) or (ii) of subparagraph (D) of this paragraph or an amount of \$65,000.00 for each~~

295 taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph
 296 (D) of this paragraph;

297 ~~(xiv) For taxable years beginning on or after January 1, 2013, and prior to January~~
 298 ~~1, 2014, retirement income from any source not to exceed an exclusion amount of~~
 299 ~~\$35,000.00 for each taxpayer meeting the eligibility requirement set forth in division~~
 300 ~~(i) or (ii) of subparagraph (D) of this paragraph or an amount of \$100,000.00 for each~~
 301 ~~taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph~~
 302 ~~(D) of this paragraph;~~

303 ~~(xv) For taxable years beginning on or after January 1, 2014, and prior to January~~
 304 ~~1, 2015, retirement income from any source not to exceed an exclusion amount of~~
 305 ~~\$35,000.00 for each taxpayer meeting the eligibility requirement set forth in division~~
 306 ~~(i) or (ii) of subparagraph (D) of this paragraph or an amount of \$150,000.00 for each~~
 307 ~~taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph~~
 308 ~~(D) of this paragraph;~~

309 ~~(xvi) For taxable years beginning on or after January 1, 2015, and prior to January~~
 310 ~~1, 2016, retirement income from any source not to exceed an exclusion amount of~~
 311 ~~\$35,000.00 for each taxpayer meeting the eligibility requirement set forth in division~~
 312 ~~(i) or (ii) of subparagraph (D) of this paragraph or an amount of \$200,000.00 for each~~
 313 ~~taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph~~
 314 ~~(D) of this paragraph; and~~

315 ~~(xvii) For taxable years beginning on or after January 1, 2016, retirement income~~
 316 ~~from any source not to exceed an exclusion amount of \$35,000.00 for each taxpayer~~
 317 ~~meeting the eligibility requirement set forth in division (i) or (ii) of subparagraph (D)~~
 318 ~~of this paragraph or an exclusion of all retirement income from any source for each~~
 319 ~~taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph~~
 320 ~~(D) of this paragraph.~~

321 (B) In the case of a married couple filing jointly, each spouse shall if otherwise
 322 qualified be individually entitled to exclude retirement income received by that spouse
 323 up to the exclusion amount.

324 (C) The exclusions provided for in this paragraph shall not apply to or affect and shall
 325 be in addition to those adjustments to net income provided for under any other
 326 paragraph of this subsection.

327 (D) A taxpayer shall be eligible for the exclusions granted by this paragraph only if the
 328 taxpayer:

329 (i) Is 62 years of age or older ~~but less than 65 years of age~~ during any part of the
 330 taxable year; or

331 (ii) Is permanently and totally disabled in that the taxpayer has a medically
 332 demonstrable disability which is permanent and which renders the taxpayer incapable
 333 of performing any gainful occupation within the taxpayer's competence; or

334 ~~(iii) Is 65 years of age or older during any part of the year.~~

335 (E) For the purposes of this paragraph, retirement income shall include, but not be
 336 limited to, interest income, dividend income, net income from rental property, capital
 337 gains income, income from royalties, income from pensions and annuities, and no more
 338 than \$4,000.00 of an individual's earned income. Earned income in excess of
 339 \$4,000.00, including, but not limited to, net business income earned by an individual
 340 from any trade or business carried on by such individual, wages, salaries, tips, and other
 341 employer compensation, shall not be regarded as retirement income. The receipt of
 342 earned income shall not diminish any taxpayer's eligibility for the retirement income
 343 exclusions allowed by this paragraph except to the extent of the express limitation
 344 provided in this subparagraph.

345 (F) The commissioner shall by regulation require proof of the eligibility of the taxpayer
 346 for the exclusions allowed by this paragraph;

347 ~~(G) The commissioner shall by regulation provide that for taxable years beginning on
 348 or after January 1, 1989, and ending before October 1, 1990, penalty and interest may
 349 be waived or reduced for any taxpayer whose estimated tax payments and tax
 350 withholdings are less than 70 percent of such taxpayer's Georgia income tax liability
 351 if the commissioner determines that such underpayment or deficiency is due to an
 352 increase in net taxable income attributable directly to amendments to this paragraph or
 353 paragraph (4) of this subsection enacted at the 1989 special session of the General
 354 Assembly and not due to willful neglect or fraud;~~

355 (6) A portion of the qualified payments to minority subcontractors, as provided in Code
 356 Section 48-7-38;

357 (7) Social security benefits and tier 1 railroad retirement benefits, to the extent included
 358 in federal taxable income;

359 ~~(8) The amount of a dependent's unearned income included in federal adjusted gross
 360 income of a parent's return;~~

361 ~~(9)~~(8) An amount equal to the amount of contributions to the Teachers Retirement
 362 System of Georgia made by a taxpayer between July 1, 1987, and December 31, 1989,
 363 which contributions were not subject to federal income taxation but were subject to
 364 Georgia income taxation. The purpose of the exclusion provided for in this paragraph is
 365 to allow a taxpayer a recovery adjustment for such amount after commencement of
 366 distributions by such retirement system to such taxpayer and to establish the same basis
 367 for federal and state income tax purposes;

368 ~~(10)~~(9) With respect to a taxpayer who is a self-employed individual treated as an
 369 employee pursuant to Section 401(c)(1) of the Internal Revenue Code, an amount equal
 370 to the amount paid by the taxpayer during the taxable year for insurance which constitutes
 371 medical care for the taxpayer and the spouse and dependents of the taxpayer which is not
 372 otherwise deductible by the taxpayer for federal income tax purposes because the
 373 applicable percentage for that taxable year as specified pursuant to Section 162(l) of the
 374 Internal Revenue Code is less than 100 percent;

375 ~~(11)~~(10) For taxable years beginning on or after January 1, 2002, and prior to January
 376 1, 2007:

377 (A) An amount equal to the amount of contributions by parents or guardians of a
 378 designated beneficiary to a savings trust account established pursuant to Article 11 of
 379 Chapter 3 of Title 20 on behalf of the designated beneficiary who is claimed as a
 380 dependent on the Georgia income tax return of the beneficiary's parents or guardians,
 381 but not exceeding \$2,000.00 per beneficiary;

382 (B) If the parents or guardians file joint returns, separate returns, or single returns, the
 383 sum of contributions constituting deductions on their returns under this paragraph shall
 384 not exceed \$2,000.00 per beneficiary;

385 (C) In order to claim the deduction for a taxable year:

386 (i) Such parent or guardian must have claimed and been allowed itemized deductions
 387 pursuant to Section 63(d) of the Internal Revenue Code of 1986 and paragraph (1) of
 388 this subsection;

389 (ii) The federal adjusted gross income for such taxable year cannot exceed
 390 \$100,000.00 for a joint return or \$50,000.00 for a separate or single return except as
 391 provided in subparagraph (D) of this paragraph; and

392 (iii) Such parent or guardian must be the account owner of the designated
 393 beneficiary's account;

394 (D) The maximum deduction authorized by this paragraph for each beneficiary shall
 395 decrease by \$400.00 for each \$1,000.00 of federal adjusted gross income over
 396 \$100,000.00 for a joint return or \$50,000.00 for a separate or single return; and

397 (E) For purposes of this paragraph, contributions or payments for any such taxable year
 398 may be made during or after such taxable year but on or before the deadline for making
 399 contributions to an individual retirement account pursuant to Section 219(f)(3) of the
 400 Internal Revenue Code of 1986;

401 ~~(11)~~(11) For taxable years beginning on or after January 1, 2007:

402 (A) An amount equal to the amount of contributions to a savings trust account
 403 established pursuant to Article 11 of Chapter 3 of Title 20 on behalf of the designated
 404 beneficiary, but not exceeding \$2,000.00 per beneficiary;

405 (B) If the contributor files a separate return or single return, the sum of contributions
 406 constituting deductions on the contributor's return under this paragraph shall not exceed
 407 \$2,000.00 per beneficiary;

408 (C) If the contributor files a joint return, the sum of contributions constituting
 409 deductions on the contributor's return under this paragraph shall not exceed \$2,000.00
 410 per beneficiary; and

411 (D) For purposes of this paragraph, contributions or payments for any such taxable
 412 year may be made during or after such taxable year but on or before the deadline for
 413 making contributions to an individual retirement account under federal law for such
 414 taxable year;

415 (12) Military income received by a member of the National Guard or any reserve
 416 component of the armed services of the United States stationed in a combat zone or
 417 stationed in defense of the borders of the United States pursuant to military orders. The
 418 exclusion provided under this paragraph:

419 (A) Shall apply with respect to each taxable year, or portion thereof, covered by such
 420 military orders; and

421 (B) Shall apply only with respect to such member of the National Guard or any reserve
 422 component of the armed forces and only with respect to military income earned during
 423 the period covered by such military orders;

424 (13)(A) An amount equal to the actual amount expended for organ donation expenses
 425 not to exceed the amount of \$10,000.00 incurred in accordance with the 'National
 426 Organ Procurement Act.'

427 (B) In order to qualify for the exclusion under subparagraph (A) of this paragraph, such
 428 taxpayer must, while living, donate all or part of such person's liver, pancreas, kidney,
 429 intestine, lung, or bone marrow. In the taxable year in which the donation is made, the
 430 taxpayer shall be entitled to claim the exclusion provided in subparagraph (A) of this
 431 paragraph only with respect to unreimbursed travel expenses, lodging expenses, and
 432 lost wages incurred as a direct result of the organ donation;

433 (13.1) An amount equal to 100 percent of the premium paid by the taxpayer during the
 434 taxable year for high deductible health plans as defined by Section 223 of the Internal
 435 Revenue Code to the extent the deduction has not been included in federal adjusted gross
 436 income, as defined under the Internal Revenue Code of 1986, and the expenses have not
 437 been provided from a health reimbursement arrangement and have not been included in
 438 itemized nonbusiness deductions;

439 (14) The deduction for school teachers provided and allowed by Section 62(a)(2)(D) of
 440 the Internal Revenue Code of 1986 as enacted on or before January 1, 2005, to the extent
 441 the deduction has not been included in federal adjusted gross income, as defined under

442 the Internal Revenue Code of 1986, and the expenses have not been included in itemized
443 nonbusiness deductions; and

444 (15) The deduction provided and allowed by Section 179 of the Internal Revenue Code
445 of 1986 as enacted on or before January 1, 2005, to the extent the deduction has not been
446 included in federal adjusted gross income, as defined under the Internal Revenue Code
447 of 1986, and the expenses have not been included in itemized nonbusiness deductions.

448 ~~(b)(1)(c)(1)~~ There shall be added to the taxable income:

449 (A) Dividend or interest income, to the extent that the dividend or interest income is
450 not included in gross income for federal income tax purposes, on obligations of any
451 state except this state or of political subdivisions except political subdivisions of this
452 state;

453 (B) Interest or dividends on obligations of the United States or of any authority,
454 commission, instrumentality, territory, or possession of the United States which by the
455 laws of the United States are exempt from federal income taxes but not from state
456 income taxes; and

457 (C) Income consisting of lump sum distributions from an annuity, pension plan, or
458 similar source which were removed from federal adjusted gross income for the
459 purposes of special federal tax computations or treatment.

460 (2) There shall be subtracted from taxable income interest or dividends on obligations
461 of the United States and its territories and possessions or of any authority, commission,
462 or instrumentality of the United States to the extent includable in gross income for federal
463 income tax purposes but exempt from state income taxes under the laws of the United
464 States. Any amount subtracted under this paragraph shall be reduced by any interest
465 expenses directly or indirectly attributable to the production of the interest or dividend
466 income.

467 (3) There shall be added to taxable income any income taxes imposed by any tax
468 jurisdiction except the State of Georgia to the extent deducted in determining federal
469 taxable income.

470 (4) No portion of any deductions or losses including, but not limited to, net operating
471 losses, which occurred in a year in which the taxpayer was not subject to taxation in this
472 state, may be deducted in any tax year. When federal adjusted gross income includes
473 deductions or losses not allowed pursuant to this paragraph, an adjustment deleting them
474 shall be made under rules established by the commissioner.

475 (5) Income, losses, and deductions previously used in computing Georgia taxable income
476 shall not again be used in computing Georgia taxable income; and the commissioner shall
477 provide for needed adjustments by regulation.

478 ~~(6) Reserved.~~

479 ~~(7)~~(6) Except as otherwise provided in paragraph (4) of subsection ~~(a)~~ (b) of this Code
 480 section, this chapter shall not be construed to repeal any tax exemptions contained in
 481 other laws of this state not referred to in this Code section. Those exemptions and the
 482 exemptions provided by federal law and treaty shall be deducted on forms provided by
 483 the commissioner.

484 ~~(8)~~(7) All elections made by the taxpayer under the Internal Revenue Code of 1954 or
 485 the Internal Revenue Code of 1986 shall also apply under this article.

486 ~~(9)~~(8) If the taxpayer claims the tax credit provided for in subsection (d) of Code Section
 487 48-7-40.6 with respect to qualified child care property, Georgia taxable income shall be
 488 increased by any depreciation deductions attributable to such property to the extent such
 489 deductions are used in determining federal taxable income.

490 ~~(10)~~~~(A)~~(9)(A) Except as otherwise provided in subparagraph (C) of this paragraph, the
 491 amount of any qualified withdrawals from a savings trust account under Article 11 of
 492 Chapter 3 of Title 20 shall not be subject to state income tax under this chapter.

493 (B) For withdrawals other than qualified withdrawals from such a savings trust
 494 account, the proportion of earnings in the account balance at the time of the withdrawal
 495 shall be applied to the total funds withdrawn to determine the earnings portion to be
 496 included in the account owner's taxable net income in the year of withdrawal.

497 (C) For withdrawals other than qualified withdrawals from such a savings trust account
 498 and for withdrawals from such a savings trust account which are rolled over to a
 499 qualified tuition program other than the qualified tuition program established under
 500 Article 11 of Chapter 3 of Title 20, the proportion of the contributions in an account
 501 balance at the time of a withdrawal which previously have been used to reduce taxable
 502 net income pursuant to subsection ~~(a)~~ (b) of this Code section shall be applied to the
 503 nonearnings portion of the total funds withdrawn to determine an amount to be included
 504 in the account owner's taxable net income in the same taxable year.

505 ~~(11)~~(10) Georgia taxable income shall be adjusted as provided in Code
 506 Section 48-7-28.3.

507 ~~(12)~~(11) Georgia taxable income shall be increased by the amount of the payments,
 508 compensation, or other economic benefit disallowed by Code Section 48-7-21.1.

509 ~~(13)~~(12) Georgia taxable income shall be adjusted as provided in Code
 510 Section 48-7-28.4.

511 ~~(e)~~(d) Georgia taxable income shall, if the taxpayer so elects, be adjusted with respect to
 512 federal depreciation deductions as provided in Code Section 48-7-39.

513 ~~(d)~~~~(1)~~~~(A)~~(e)(1)(A) As used in this paragraph, the term 'individual' shall mean the same
 514 as is defined in Code Section 48-1-2.

515 (B) Georgia resident shareholders of Subchapter 'S' corporations may make an
 516 adjustment to federal adjusted gross income for Subchapter 'S' corporation income
 517 where another state does not recognize a Subchapter 'S' corporation.

518 (C) A Georgia individual resident who is a partner in a partnership, who is a member
 519 of a limited liability company taxed as a partnership, or who is a single member of a
 520 limited liability company which is disregarded for federal income tax purposes may
 521 make an adjustment to federal adjusted gross income for the entity's income taxed in
 522 another state which imposes on the entity a tax on or measured by income.

523 (D) Adjustments pursuant to this paragraph shall only be allowed for the portion of the
 524 income on which such tax was actually paid by such Subchapter 'S' corporation,
 525 partnership, or limited liability company. In multitiered situations, the adjustment for
 526 such individual shall be determined by allocating such income between the
 527 shareholders, partners, or members at each tier based upon their profit/loss percentage.

528 (2) Nonresident shareholders of a Georgia Subchapter 'S' corporation shall execute a
 529 consent agreement to pay Georgia income tax on their portion of the corporate income
 530 in order for such Subchapter 'S' corporation to be recognized for Georgia purposes. A
 531 consent agreement for each shareholder shall be filed by the corporation with its
 532 corporate tax return in the year in which the Subchapter 'S' corporation is first required
 533 to file a Georgia income tax return. For a Subchapter 'S' corporation in existence prior
 534 to January 1, 2008, the consent agreement shall be filed for each shareholder in the first
 535 Georgia tax return filed for a year beginning on or after January 1, 2008. A consent
 536 agreement shall also be filed in any subsequent year for any additional nonresident who
 537 first becomes a shareholder of the Subchapter 'S' corporation in that year. Shareholders
 538 of a federal Subchapter 'S' corporation which is not recognized for Georgia purposes may
 539 make an adjustment to federal adjusted gross income in order to avoid double taxation
 540 on this type of income. Adjustments shall not be allowed unless tax was actually paid by
 541 such corporation."

542 **SECTION 1-4.**

543 Said Title 48 is further amended by repealing and reserving Code Section 48-7A-2, relating
 544 to the definition of dependent for low-income tax credit purposes.

545 **SECTION 1-5.**

546 Said Title 48 is further amended by revising Code Section 48-7A-3, relating to low-income
 547 tax credits, as follows:

548 "48-7A-3.

549 (a) ~~Except as otherwise provided in subsection (e) of this Code section, each~~ Each resident
 550 taxpayer who files an individual income tax return for a taxable year and who is not
 551 claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for
 552 federal or Georgia individual income tax purposes may claim a tax credit against the
 553 resident taxpayer's individual income tax liability for the taxable year for which the
 554 individual income tax return is being filed as provided in subsection (b) of this Code
 555 section; provided that:

556 (1) ~~A husband and wife filing a joint return shall each be deemed a dependent for~~
 557 ~~purposes of such joint return; and~~

558 (2) ~~A husband and wife filing separate returns for a taxable year for which a joint return~~
 559 ~~could have been filed by them shall claim only the tax credit to which they would have~~
 560 ~~been entitled had a joint return been filed.~~

561 (b)(1) For purposes of this subsection, the term Georgia adjusted gross income shall have
 562 the same meaning as provided in paragraph (1) of subsection (b) of Code Section
 563 48-7-26.

564 (2) For all taxable years beginning on or after January 1, 2012, and prior to January 1,
 565 2013, each resident ~~Each~~ taxpayer may claim a tax credit in the amount indicated for each
 566 Georgia adjusted gross income bracket as shown in the schedule below; multiplied by the
 567 ~~number of dependents which the taxpayer is entitled to claim. Each taxpayer 65 years of~~
 568 ~~age or over may claim double the tax credit.~~

569 ~~TAX CREDIT SCHEDULE~~

<u>Adjusted Gross Income</u>	<u>Tax Credit</u>
Under \$6,000.00	\$26.00
6,000.00 but not more than 7,999.00	20.00
8,000.00 but not more than 9,999.00	14.00
10,000.00 but not more than 14,999.00	8.00
15,000.00 but not more than 19,999.00	5.00

<u>Georgia Adjusted Gross Income</u>	<u>Tax Credit</u>			
	<u>Single</u>	<u>Married Filing Joint</u>	<u>Head of Household</u>	<u>Married Filing Separate</u>
	<u>Under \$750.00</u>	<u>\$35.00</u>	<u>\$35.00</u>	<u>\$35.00</u>
<u>\$750.00 but not more than \$999.00</u>	<u>\$46.00</u>	<u>\$46.00</u>	<u>\$46.00</u>	<u>\$46.00</u>

583	<u>\$1,000.00 but not more</u>	<u>\$92.00</u>	<u>\$92.00</u>	<u>\$92.00</u>	<u>\$92.00</u>
584	<u>than \$1,999.00</u>				
585	<u>\$2,000.00 but not more</u>	<u>\$138.00</u>	<u>\$138.00</u>	<u>\$138.00</u>	<u>\$138.00</u>
586	<u>than \$2,999.00</u>				
587	<u>\$3,000.00 but not more</u>	<u>\$184.00</u>	<u>\$184.00</u>	<u>\$184.00</u>	<u>\$184.00</u>
588	<u>than \$3,999.00</u>				
589	<u>\$4,000.00 but not more</u>	<u>\$230.00</u>	<u>\$230.00</u>	<u>\$230.00</u>	<u>\$219.00</u>
590	<u>than \$4,999.00</u>				
591	<u>\$5,000.00 but not more</u>	<u>\$264.00</u>	<u>\$276.00</u>	<u>\$266.00</u>	<u>\$242.00</u>
592	<u>than \$5,999.00</u>				
593	<u>\$6,000.00 but not more</u>	<u>\$290.00</u>	<u>\$322.00</u>	<u>\$292.00</u>	<u>\$255.00</u>
594	<u>than \$6,999.00</u>				
595	<u>\$7,000.00 but not more</u>	<u>\$308.00</u>	<u>\$368.00</u>	<u>\$318.00</u>	<u>\$258.00</u>
596	<u>than \$7,999.00</u>				
597	<u>\$8,000.00 but not more</u>	<u>\$322.00</u>	<u>\$408.00</u>	<u>\$334.00</u>	<u>\$254.00</u>
598	<u>than \$8,999.00</u>				
599	<u>\$9,000.00 but not more</u>	<u>\$328.00</u>	<u>\$438.00</u>	<u>\$350.00</u>	<u>\$242.00</u>
600	<u>than \$9,999.00</u>				
601	<u>\$10,000.00 but not more</u>	<u>\$326.00</u>	<u>\$464.00</u>	<u>\$356.00</u>	<u>\$228.00</u>
602	<u>than \$10,999.00</u>				
603	<u>\$11,000.00 but not more</u>	<u>\$322.00</u>	<u>\$484.00</u>	<u>\$362.00</u>	<u>\$214.00</u>
604	<u>than \$11,999.00</u>				
605	<u>\$12,000.00 but not more</u>	<u>\$308.00</u>	<u>\$500.00</u>	<u>\$358.00</u>	<u>\$200.00</u>
606	<u>than \$12,999.00</u>				
607	<u>\$13,000.00 but not more</u>	<u>\$294.00</u>	<u>\$510.00</u>	<u>\$354.00</u>	<u>\$186.00</u>
608	<u>than \$13,999.00</u>				
609	<u>\$14,000.00 but not more</u>	<u>\$280.00</u>	<u>\$516.00</u>	<u>\$350.00</u>	<u>\$172.00</u>
610	<u>than \$14,999.00</u>				
611	<u>\$15,000.00 but not more</u>	<u>\$266.00</u>	<u>\$516.00</u>	<u>\$336.00</u>	<u>\$158.00</u>
612	<u>than \$15,999.00</u>				
613	<u>\$16,000.00 but not more</u>	<u>\$252.00</u>	<u>\$512.00</u>	<u>\$322.00</u>	<u>\$144.00</u>
614	<u>than \$16,999.00</u>				
615	<u>\$17,000.00 but not more</u>	<u>\$238.00</u>	<u>\$508.00</u>	<u>\$308.00</u>	<u>\$130.00</u>
616	<u>than \$17,999.00</u>				
617	<u>\$18,000.00 but not more</u>	<u>\$224.00</u>	<u>\$498.00</u>	<u>\$294.00</u>	<u>\$116.00</u>
618	<u>than \$18,999.00</u>				

619	<u>\$19,000.00 but not more</u>	<u>\$210.00</u>	<u>\$484.00</u>	<u>\$280.00</u>	<u>\$102.00</u>
620	<u>than \$19,999.00</u>				
621	<u>\$20,000.00 but not more</u>	<u>\$196.00</u>	<u>\$470.00</u>	<u>\$266.00</u>	<u>\$88.00</u>
622	<u>than \$20,999.00</u>				
623	<u>\$21,000.00 but not more</u>	<u>\$182.00</u>	<u>\$456.00</u>	<u>\$252.00</u>	<u>\$74.00</u>
624	<u>than \$21,999.00</u>				
625	<u>\$22,000.00 but not more</u>	<u>\$168.00</u>	<u>\$442.00</u>	<u>\$238.00</u>	<u>\$60.00</u>
626	<u>than \$22,999.00</u>				
627	<u>\$23,000.00 but not more</u>	<u>\$154.00</u>	<u>\$428.00</u>	<u>\$224.00</u>	<u>\$46.00</u>
628	<u>than \$23,999.00</u>				
629	<u>\$24,000.00 but not more</u>	<u>\$140.00</u>	<u>\$414.00</u>	<u>\$210.00</u>	<u>\$32.00</u>
630	<u>than \$24,999.00</u>				
631	<u>\$25,000.00 but not more</u>	<u>\$126.00</u>	<u>\$400.00</u>	<u>\$196.00</u>	<u>\$18.00</u>
632	<u>than \$25,999.00</u>				
633	<u>\$26,000.00 but not more</u>	<u>\$112.00</u>	<u>\$386.00</u>	<u>\$182.00</u>	<u>\$4.00</u>
634	<u>than \$26,999.00</u>				
635	<u>\$27,000.00 but not more</u>	<u>\$98.00</u>	<u>\$372.00</u>	<u>\$168.00</u>	<u>0</u>
636	<u>than \$27,999.00</u>				
637	<u>\$28,000.00 but not more</u>	<u>\$84.00</u>	<u>\$358.00</u>	<u>\$154.00</u>	<u>0</u>
638	<u>than \$28,999.00</u>				
639	<u>\$29,000.00 but not more</u>	<u>\$70.00</u>	<u>\$344.00</u>	<u>\$140.00</u>	<u>0</u>
640	<u>than \$29,999.00</u>				
641	<u>\$30,000.00 but not more</u>	<u>\$56.00</u>	<u>\$330.00</u>	<u>\$126.00</u>	<u>0</u>
642	<u>than \$30,999.00</u>				
643	<u>\$31,000.00 but not more</u>	<u>\$42.00</u>	<u>\$316.00</u>	<u>\$112.00</u>	<u>0</u>
644	<u>than \$31,999.00</u>				
645	<u>\$32,000.00 but not more</u>	<u>\$28.00</u>	<u>\$302.00</u>	<u>\$98.00</u>	<u>0</u>
646	<u>than \$32,999.00</u>				
647	<u>\$33,000.00 but not more</u>	<u>\$14.00</u>	<u>\$288.00</u>	<u>\$84.00</u>	<u>0</u>
648	<u>than \$33,999.00</u>				
649	<u>\$34,000.00 but not more</u>	<u>0</u>	<u>\$274.00</u>	<u>\$70.00</u>	<u>0</u>
650	<u>than \$34,999.00</u>				
651	<u>\$35,000.00 but not more</u>	<u>0</u>	<u>\$260.00</u>	<u>\$56.00</u>	<u>0</u>
652	<u>than \$35,999.00</u>				
653	<u>\$36,000.00 but not more</u>	<u>0</u>	<u>\$246.00</u>	<u>\$42.00</u>	<u>0</u>
654	<u>than \$36,999.00</u>				

655	<u>\$37,000.00 but not more</u>	<u>0</u>	<u>\$232.00</u>	<u>\$28.00</u>	<u>0</u>
656	<u>than \$37,999.00</u>				
657	<u>\$38,000.00 but not more</u>	<u>0</u>	<u>\$218.00</u>	<u>\$14.00</u>	<u>0</u>
658	<u>than \$38,999.00</u>				
659	<u>\$39,000.00 but not more</u>	<u>0</u>	<u>\$204.00</u>	<u>0</u>	<u>0</u>
660	<u>than \$39,999.00</u>				
661	<u>\$40,000.00 but not more</u>	<u>0</u>	<u>\$190.00</u>	<u>0</u>	<u>0</u>
662	<u>than \$40,999.00</u>				
663	<u>\$41,000.00 but not more</u>	<u>0</u>	<u>\$176.00</u>	<u>0</u>	<u>0</u>
664	<u>than \$41,999.00</u>				
665	<u>\$42,000.00 but not more</u>	<u>0</u>	<u>\$162.00</u>	<u>0</u>	<u>0</u>
666	<u>than \$42,999.00</u>				
667	<u>\$43,000.00 but not more</u>	<u>0</u>	<u>\$148.00</u>	<u>0</u>	<u>0</u>
668	<u>than \$43,999.00</u>				
669	<u>\$44,000.00 but not more</u>	<u>0</u>	<u>\$134.00</u>	<u>0</u>	<u>0</u>
670	<u>than \$44,999.00</u>				
671	<u>\$45,000.00 but not more</u>	<u>0</u>	<u>\$120.00</u>	<u>0</u>	<u>0</u>
672	<u>than \$45,999.00</u>				
673	<u>\$46,000.00 but not more</u>	<u>0</u>	<u>\$106.00</u>	<u>0</u>	<u>0</u>
674	<u>than \$46,999.00</u>				
675	<u>\$47,000.00 but not more</u>	<u>0</u>	<u>\$92.00</u>	<u>0</u>	<u>0</u>
676	<u>than \$47,999.00</u>				
677	<u>\$48,000.00 but not more</u>	<u>0</u>	<u>\$78.00</u>	<u>0</u>	<u>0</u>
678	<u>than \$48,999.00</u>				
679	<u>\$49,000.00 but not more</u>	<u>0</u>	<u>\$64.00</u>	<u>0</u>	<u>0</u>
680	<u>than \$49,999.00</u>				
681	<u>\$50,000.00 but not more</u>	<u>0</u>	<u>\$50.00</u>	<u>0</u>	<u>0</u>
682	<u>than \$50,999.00</u>				
683	<u>\$51,000.00 but not more</u>	<u>0</u>	<u>\$36.00</u>	<u>0</u>	<u>0</u>
684	<u>than \$51,999.00</u>				
685	<u>\$52,000.00 but not more</u>	<u>0</u>	<u>\$22.00</u>	<u>0</u>	<u>0</u>
686	<u>than \$52,999.00</u>				
687	<u>\$53,000.00 but not more</u>	<u>0</u>	<u>\$8.00</u>	<u>0</u>	<u>0</u>
688	<u>than \$53,999.00</u>				
689	<u>\$54,000.00 or more</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

690 (3) For all taxable years beginning on or after January 1, 2013, each resident taxpayer
 691 may claim a tax credit in the amount indicated for each Georgia adjusted gross income
 692 bracket as shown in the schedule below:

<u>Georgia Adjusted Gross Income</u>	<u>Tax Credit</u>			
	<u>Single</u>	<u>Married Filing Joint</u>	<u>Head of Household</u>	<u>Married Filing Separate</u>
Under \$750.00	\$34.00	\$34.00	\$34.00	\$34.00
\$750.00 but not more than \$999.00	\$46.00	\$46.00	\$46.00	\$46.00
\$1,000.00 but not more than \$1,999.00	\$91.00	\$91.00	\$91.00	\$91.00
\$2,000.00 but not more than \$2,999.00	\$137.00	\$137.00	\$137.00	\$137.00
\$3,000.00 but not more than \$3,999.00	\$182.00	\$182.00	\$182.00	\$182.00
\$4,000.00 but not more than \$4,999.00	\$228.00	\$228.00	\$228.00	\$217.00
\$5,000.00 but not more than \$5,999.00	\$261.00	\$273.00	\$263.00	\$239.00
\$6,000.00 but not more than \$6,999.00	\$286.00	\$319.00	\$289.00	\$252.00
\$7,000.00 but not more than \$7,999.00	\$304.00	\$364.00	\$314.00	\$254.00
\$8,000.00 but not more than \$8,999.00	\$317.00	\$404.00	\$330.00	\$250.00
\$9,000.00 but not more than \$9,999.00	\$323.00	\$433.00	\$345.00	\$237.00
\$10,000.00 but not more than \$10,999.00	\$321.00	\$459.00	\$351.00	\$223.00
\$11,000.00 but not more than \$11,999.00	\$316.00	\$478.00	\$356.00	\$208.00
\$12,000.00 but not more than \$12,999.00	\$302.00	\$494.00	\$352.00	\$194.00
\$13,000.00 but not more than \$13,999.00	\$287.00	\$503.00	\$347.00	\$179.00

726	<u>\$14,000.00 but not more</u>	<u>\$273.00</u>	<u>\$509.00</u>	<u>\$343.00</u>	<u>\$165.00</u>
727	<u>than \$14,999.00</u>				
728	<u>\$15,000.00 but not more</u>	<u>\$258.00</u>	<u>\$508.00</u>	<u>\$328.00</u>	<u>\$150.00</u>
729	<u>than \$15,999.00</u>				
730	<u>\$16,000.00 but not more</u>	<u>\$244.00</u>	<u>\$504.00</u>	<u>\$314.00</u>	<u>\$136.00</u>
731	<u>than \$16,999.00</u>				
732	<u>\$17,000.00 but not more</u>	<u>\$229.00</u>	<u>\$499.00</u>	<u>\$299.00</u>	<u>\$121.00</u>
733	<u>than \$17,999.00</u>				
734	<u>\$18,000.00 but not more</u>	<u>\$215.00</u>	<u>\$489.00</u>	<u>\$285.00</u>	<u>\$107.00</u>
735	<u>than \$18,999.00</u>				
736	<u>\$19,000.00 but not more</u>	<u>\$200.00</u>	<u>\$474.00</u>	<u>\$270.00</u>	<u>\$92.00</u>
737	<u>than \$19,999.00</u>				
738	<u>\$20,000.00 but not more</u>	<u>\$186.00</u>	<u>\$460.00</u>	<u>\$256.00</u>	<u>\$78.00</u>
739	<u>than \$20,999.00</u>				
740	<u>\$21,000.00 but not more</u>	<u>\$171.00</u>	<u>\$445.00</u>	<u>\$241.00</u>	<u>\$63.00</u>
741	<u>than \$21,999.00</u>				
742	<u>\$22,000.00 but not more</u>	<u>\$157.00</u>	<u>\$431.00</u>	<u>\$227.00</u>	<u>\$49.00</u>
743	<u>than \$22,999.00</u>				
744	<u>\$23,000.00 but not more</u>	<u>\$142.00</u>	<u>\$416.00</u>	<u>\$212.00</u>	<u>\$34.00</u>
745	<u>than \$23,999.00</u>				
746	<u>\$24,000.00 but not more</u>	<u>\$128.00</u>	<u>\$402.00</u>	<u>\$198.00</u>	<u>\$20.00</u>
747	<u>than \$24,999.00</u>				
748	<u>\$25,000.00 but not more</u>	<u>\$113.00</u>	<u>\$387.00</u>	<u>\$183.00</u>	<u>\$5.00</u>
749	<u>than \$25,999.00</u>				
750	<u>\$26,000.00 but not more</u>	<u>\$99.00</u>	<u>\$373.00</u>	<u>\$169.00</u>	<u>0</u>
751	<u>than \$26,999.00</u>				
752	<u>\$27,000.00 but not more</u>	<u>\$84.00</u>	<u>\$358.00</u>	<u>\$154.00</u>	<u>0</u>
753	<u>than \$27,999.00</u>				
754	<u>\$28,000.00 but not more</u>	<u>\$70.00</u>	<u>\$344.00</u>	<u>\$140.00</u>	<u>0</u>
755	<u>than \$28,999.00</u>				
756	<u>\$29,000.00 but not more</u>	<u>\$55.00</u>	<u>\$329.00</u>	<u>\$125.00</u>	<u>0</u>
757	<u>than \$29,999.00</u>				
758	<u>\$30,000.00 but not more</u>	<u>\$41.00</u>	<u>\$315.00</u>	<u>\$111.00</u>	<u>0</u>
759	<u>than \$30,999.00</u>				
760	<u>\$31,000.00 but not more</u>	<u>\$26.00</u>	<u>\$300.00</u>	<u>\$96.00</u>	<u>0</u>
761	<u>than \$31,999.00</u>				

762	<u>\$32,000.00 but not more</u>	<u>\$12.00</u>	<u>\$286.00</u>	<u>\$82.00</u>	<u>0</u>
763	<u>than \$32,999.00</u>				
764	<u>\$33,000.00 but not more</u>	<u>0</u>	<u>\$271.00</u>	<u>\$67.00</u>	<u>0</u>
765	<u>than \$33,999.00</u>				
766	<u>\$34,000.00 but not more</u>	<u>0</u>	<u>\$257.00</u>	<u>\$53.00</u>	<u>0</u>
767	<u>than \$34,999.00</u>				
768	<u>\$35,000.00 but not more</u>	<u>0</u>	<u>\$242.00</u>	<u>\$38.00</u>	<u>0</u>
769	<u>than \$35,999.00</u>				
770	<u>\$36,000.00 but not more</u>	<u>0</u>	<u>\$228.00</u>	<u>\$24.00</u>	<u>0</u>
771	<u>than \$36,999.00</u>				
772	<u>\$37,000.00 but not more</u>	<u>0</u>	<u>\$213.00</u>	<u>\$9.00</u>	<u>0</u>
773	<u>than \$37,999.00</u>				
774	<u>\$38,000.00 but not more</u>	<u>0</u>	<u>\$199.00</u>	<u>0</u>	<u>0</u>
775	<u>than \$38,999.00</u>				
776	<u>\$39,000.00 but not more</u>	<u>0</u>	<u>\$184.00</u>	<u>0</u>	<u>0</u>
777	<u>than \$39,999.00</u>				
778	<u>\$40,000.00 but not more</u>	<u>0</u>	<u>\$170.00</u>	<u>0</u>	<u>0</u>
779	<u>than \$40,999.00</u>				
780	<u>\$41,000.00 but not more</u>	<u>0</u>	<u>\$155.00</u>	<u>0</u>	<u>0</u>
781	<u>than \$41,999.00</u>				
782	<u>\$42,000.00 but not more</u>	<u>0</u>	<u>\$141.00</u>	<u>0</u>	<u>0</u>
783	<u>than \$42,999.00</u>				
784	<u>\$43,000.00 but not more</u>	<u>0</u>	<u>\$126.00</u>	<u>0</u>	<u>0</u>
785	<u>than \$43,999.00</u>				
786	<u>\$44,000.00 but not more</u>	<u>0</u>	<u>\$112.00</u>	<u>0</u>	<u>0</u>
787	<u>than \$44,999.00</u>				
788	<u>\$45,000.00 but not more</u>	<u>0</u>	<u>\$97.00</u>	<u>0</u>	<u>0</u>
789	<u>than \$45,999.00</u>				
790	<u>\$46,000.00 but not more</u>	<u>0</u>	<u>\$83.00</u>	<u>0</u>	<u>0</u>
791	<u>than \$46,999.00</u>				
792	<u>\$47,000.00 but not more</u>	<u>0</u>	<u>\$68.00</u>	<u>0</u>	<u>0</u>
793	<u>than \$47,999.00</u>				
794	<u>\$48,000.00 but not more</u>	<u>0</u>	<u>\$54.00</u>	<u>0</u>	<u>0</u>
795	<u>than \$48,999.00</u>				
796	<u>\$49,000.00 but not more</u>	<u>0</u>	<u>\$39.00</u>	<u>0</u>	<u>0</u>
797	<u>than \$49,999.00</u>				

798	<u>\$50,000.00 but not more</u>	<u>0</u>	<u>\$25.00</u>	<u>0</u>	<u>0</u>
799	<u>than \$50,999.00</u>				
800	<u>\$51,000.00 but not more</u>	<u>0</u>	<u>\$10.00</u>	<u>0</u>	<u>0</u>
801	<u>than \$51,999.00</u>				
802	<u>\$52,000.00 or more</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

803 (c) The tax credit claimed by a resident taxpayer pursuant to this Code section shall be
 804 deductible from the resident taxpayer's individual income tax liability, if any, for the tax
 805 year in which it is properly claimed; provided, however, that in no event shall the total
 806 amount of the tax credit under this Code section for a taxable year exceed the taxpayer's
 807 income tax liability. Any unused credit amount shall not be allowed to be carried forward
 808 to the taxpayer's succeeding years' tax liability. No such credit shall be allowed the
 809 taxpayer against prior years' tax liability.

810 ~~(d) All claims for a tax credit under this Code section, including any amended claims, must~~
 811 ~~be filed on or before the end of the twelfth month following the close of the taxable year~~
 812 ~~for which the credit may be claimed. Failure to comply with this subsection shall~~
 813 ~~constitute a waiver of the right to claim the credit.~~

814 ~~(e) Any individual who receives a food stamp allotment for all or any part of a taxable year~~
 815 ~~shall not be entitled to claim a credit under this Code section for that taxable year.~~

816 ~~(e.1)(d)~~ (d) Any individual incarcerated or confined in any city, county, municipal, state, or
 817 federal penal or correctional institution for all or any part of a taxable year shall not be
 818 entitled to claim a credit under this Code section for that taxable year.

819 ~~(f)(e)~~ (e) The commissioner shall be authorized by rule and regulation to provide for the
 820 proper administration of this Code section."

821 **PART II**

822 **SECTION 2-1.**

823 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 824 amended in Code Section 48-8-2, relating to definitions regarding sales and use tax, by
 825 adding a new subparagraph in paragraph (8), to read as follows:

826 "(K.1) Provides any services described under Code Section 48-8-2.1;"

827 **SECTION 2-2.**

828 Said Title 48 is further amended in said Code section by adding a new subparagraph in
 829 paragraph (31), to read as follows:

830 "(D.1) Sales of or charges made for any services enumerated in Code Section
 831 48-8-2.1;"

832 **SECTION 2-3.**

833 Said Title 48 is further amended by adding a new Code section to read as follows:

834 "48-8-2.1.835 (a) As used in this Code section, the term 'motor vehicle' shall have the same meaning as
836 provided for in paragraph (33) of Code Section 40-1-1.837 (b) Services provided for under subparagraph (D.1) of paragraph (31) of Code Section
838 48-8-2 means motor vehicle maintenance, repair, or installation services on motor vehicles
839 used for personal use, including those made on:840 (1) Tires;841 (2) Audio equipment;842 (3) Video equipment;843 (4) Body work and painting;844 (5) Clutches or transmissions;845 (6) Drive shaft or rear-end work;846 (7) Brakes;847 (8) Steering or front-end work;848 (9) Engine cooling systems;849 (10) Motor tune-ups;850 (11) Oil change, lubrication, or oil filter;851 (12) Front-end alignment, wheel balancing, or wheel rotation;852 (13) Shock absorbers;853 (14) Batteries or miscellaneous equipment work;854 (15) Exhaust systems;855 (16) Electrical systems;856 (17) Engines;857 (18) Vehicle accessories or customizations; and858 (19) Vehicle cleaning or detailing."859 **SECTION 2-4.**860 Said Title 48 is further amended in Code Section 48-8-3, relating to exemptions from sales
861 and use tax, by revising paragraphs (23), (25), (26), (27), (28), (29), (29.1), (34), (34.3), (35),
862 (37), (49), (64), (77), (79), and (90) as follows:863 "(23) Fees or charges for services rendered by repairmen for which a separate charge is
864 made but not including services for motor vehicle maintenance, repair, or installation
865 listed in Code Section 48-8-2.1;"866 "(25) The sale of seed; fertilizers; insecticides; fungicides; rodenticides; herbicides;
867 defoliants; soil fumigants; plant growth regulating chemicals; desiccants including, but

868 not limited to, shavings and sawdust from wood, peanut hulls, fuller's earth, straw, and
 869 hay; and feed for livestock, fish, or poultry when used either directly in tilling the soil or
 870 in animal, fish, or poultry husbandry. This paragraph shall stand repealed in its entirety
 871 on January 1, 2012;

872 (26) The sale to persons engaged primarily in producing farm crops for sale of
 873 machinery and equipment which is used exclusively for irrigation of farm crops
 874 including, but not limited to, fruit, vegetable, and nut crops. This paragraph shall stand
 875 repealed in its entirety on January 1, 2012;

876 (27) The sale of sugar used as food for honeybees kept for the commercial production
 877 of honey, beeswax, and honeybees when the commissioner's prior approval is obtained.
 878 This paragraph shall stand repealed in its entirety on January 1, 2012;

879 (28) The sale of cattle, hogs, sheep, horses, poultry, or bees when sold for breeding
 880 purposes. This paragraph shall stand repealed in its entirety on January 1, 2012;

881 (29) The sale of the following types of agricultural machinery:

882 (A) Machinery and equipment for use on a farm in the production of poultry and eggs
 883 for sale;

884 (B) Machinery and equipment used in the hatching and breeding of poultry and the
 885 breeding of livestock;

886 (C) Machinery and equipment for use on a farm in the production, processing, and
 887 storage of fluid milk for sale;

888 (D) Machinery and equipment for use on a farm in the production of livestock for sale;

889 (E) Machinery and equipment which is used by a producer of poultry, eggs, fluid milk,
 890 or livestock for sale for the purpose of harvesting farm crops to be used on the farm by
 891 that producer as feed for poultry or livestock;

892 (F) Machinery which is used directly in tilling the soil or in animal husbandry when
 893 the machinery is incorporated for the first time into a new farm unit engaged in tilling
 894 the soil or in animal husbandry in this state;

895 (G) Machinery which is used directly in tilling the soil or in animal husbandry when
 896 the machinery is incorporated as additional machinery for the first time into an existing
 897 farm unit already engaged in tilling the soil or in animal husbandry in this state;

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

901 (I) Rubber-tired farm tractors and attachments to the tractors which are sold to persons
 902 engaged primarily in producing farm crops for sale and which are used exclusively in
 903 tilling, planting, cultivating, and harvesting farm crops, and equipment used exclusively
 904 in harvesting farm crops or in processing onion crops which are sold to persons

905 engaged primarily in producing farm crops for sale. For the purposes of this
 906 subparagraph, the term 'farm crops' includes only those crops which are planted and
 907 harvested within a 12 month period; and

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

910 This paragraph shall stand repealed in its entirety on January 1, 2012;

911 (29.1) The sale or use of any off-road equipment and related attachments which are sold
 912 to or used by persons engaged primarily in the growing or harvesting of timber and which
 913 are used exclusively in site preparation, planting, cultivating, or harvesting timber.
 914 Equipment used in harvesting shall include all off-road equipment and related
 915 attachments used in every forestry procedure starting with the severing of a tree from the
 916 ground until and including the point at which the tree or its parts in any form has been
 917 loaded in the field in or on a truck or other vehicle for transport to the place of use. Such
 918 off-road equipment shall include, but not be limited to, skidders, feller bunchers,
 919 debarkers, delimiters, chip harvesters, tub-grinders, woods cutters, chippers of all types,
 920 loaders of all types, dozers, and motor graders and the related attachments. This
 921 paragraph shall stand repealed in its entirety on January 1, 2012;”

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

923 (A) Machinery or equipment which is necessary and integral to the manufacture of
 924 tangible personal property when the machinery or equipment is bought to replace or
 925 upgrade machinery or equipment in a manufacturing plant presently existing in this
 926 state and machinery or equipment components which are purchased to upgrade
 927 machinery or equipment which is necessary and integral to the manufacture of tangible
 928 personal property in a manufacturing plant;

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

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

936 (D) Any person making a sale of machinery or equipment for the purpose specified in
 937 subparagraph (B) of this paragraph shall collect the tax imposed on the sale by this
 938 article unless the purchaser furnishes him with a certificate issued by the commissioner
 939 certifying that the purchaser is entitled to purchase the machinery or equipment without
 940 paying the tax. As a condition precedent to the issuance of the certificate, the
 941 commissioner, at the commissioner's discretion, may require a good and valid bond

942 with a surety company authorized to do business in this state as surety or may require
 943 legal securities, in an amount fixed by the commissioner, conditioned upon payment by
 944 the purchaser of all taxes due under this article in the event it should be determined that
 945 the sale fails to meet the requirements of this subparagraph;

946 This paragraph shall stand repealed in its entirety on January 1, 2012;"

947 "(34.3)(A) The sale or use of repair or replacement parts, machinery clothing or
 948 replacement machinery clothing, molds or replacement molds, dies or replacement dies,
 949 waxes, and tooling or replacement tooling for machinery which is necessary and
 950 integral to the manufacture of tangible personal property in a manufacturing plant
 951 presently existing in this state.

952 (B) The commissioner shall promulgate rules and regulations to implement and
 953 administer this paragraph.

954 (C) This paragraph shall stand repealed in its entirety on January 1, 2012;"

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

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

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

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

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

969 (C) This paragraph shall stand repealed in its entirety on January 1, 2012;"

970 "(37) The sale of machinery and equipment for use in combating air and water pollution
 971 and any industrial material bought for further processing in the manufacture of tangible
 972 personal property for sale or any part of the industrial material or by-product thereof
 973 which becomes a wasteful product contributing to pollution problems and which is used
 974 up in a recycling or burning process. Any person making a sale of machinery and
 975 equipment for the purposes specified in this paragraph shall collect a tax imposed on the
 976 sale by this article unless the purchaser furnishes the person making the sale with a
 977 certificate issued by the commissioner certifying that the purchaser is entitled to purchase

978 the machinery, equipment, or industrial material without paying the tax. This paragraph
 979 shall stand repealed in its entirety on January 1, 2012;"

980 "(49) Sales of liquefied petroleum gas or other fuel used in a structure in which broilers,
 981 pullets, or other poultry are raised. This paragraph shall stand repealed in its entirety on
 982 January 1, 2012;"

983 "(64) The sale of electricity or other fuel for the operation of an irrigation system which
 984 is used on a farm exclusively for the irrigation of crops. This paragraph shall stand
 985 repealed in its entirety on January 1, 2012;"

986 "(77) Sales of liquefied petroleum gas or other fuel used in a structure in which plants,
 987 seedlings, nursery stock, or floral products are raised primarily for the purposes of
 988 making sales of such plants, seedlings, nursery stock, or floral products for resale. This
 989 paragraph shall stand repealed in its entirety on January 1, 2012;"

990 "(79) The sale or use of ice for chilling poultry or vegetables in processing for market
 991 and for chilling poultry or vegetables in storage rooms, compartments, or delivery trucks.
 992 This paragraph shall stand repealed in its entirety on January 1, 2012;"

993 "(90) The sale of electricity to a manufacturer located in this state used directly in the
 994 manufacture of a product if the direct cost of such electricity exceeds 50 percent of the
 995 cost of all materials, including electricity, used directly in the product. This paragraph
 996 shall stand repealed in its entirety on January 1, 2015; or"

997 **SECTION 2-5.**

998 Said Title 48 is further amended by adding a new Code section to read as follows:

999 "48-8-3.2.

1000 (a) As used in this Code section, the term:

1001 (1) 'Consumable supplies' means tangible personal property, other than machinery,
 1002 equipment, and industrial materials, that is consumed or expended during the
 1003 manufacture of tangible personal property. The term includes, but is not limited to, water
 1004 treatment chemicals for use in, on, or in conjunction with machinery or equipment and
 1005 items that are readily disposable. The term excludes packaging supplies and energy.

1006 (2) 'Energy' means natural or artificial gas, oil, gasoline, electricity, solid fuel, wood,
 1007 waste, ice, steam, water, and other materials necessary and integral for heat, light, power,
 1008 refrigeration, climate control, processing, or any other use in any phase of the
 1009 manufacture of tangible personal property. The term excludes energy purchased by a
 1010 manufacturer that is primarily engaged in producing electricity for resale.

1011 (3) 'Equipment' means tangible personal property, other than machinery, industrial
 1012 materials, and consumable supplies. The term includes durable devices and apparatuses
 1013 that are generally designed for long-term continuous or repetitive use. Examples of

1014 equipment include, but are not limited to, machinery clothing, cones, cores, pallets, hand
1015 tools, tooling, molds, dies, waxes, jigs, patterns, conveyors, safety devices, and pollution
1016 control devices. The term includes components and repair or replacement parts. The
1017 term excludes real property.

1018 (4) 'Fixtures' means tangible personal property that has been installed or attached to land
1019 or to any building thereon and that is intended to remain permanently in its place. A
1020 consideration for whether tangible property is a fixture is whether its removal would
1021 cause significant damage to such property or to the real property to which it is attached.
1022 Fixtures are classified as real property. Examples of fixtures include, but are not limited
1023 to, plumbing, lighting fixtures, slabs, and foundations.

1024 (5) 'Industrial materials' means materials for future processing, manufacture, or
1025 conversion into articles of tangible personal property for resale when the industrial
1026 materials become a component part of the finished product. The term also means
1027 materials that are coated upon or impregnated into the product at any stage of its
1028 processing, manufacture, or conversion, even though such materials do not remain a
1029 component part of the finished product for sale. The term includes raw materials.

1030 (6) 'Machinery' means an assemblage of parts that transmits force, motion, and energy
1031 one to the other in a predetermined manner to accomplish a specific objective. The term
1032 includes a machine and all of its components including, but not limited to, belts, pulleys,
1033 shafts, gauges, gaskets, valves, hoses, pipes, wires, blades, bearings, operational
1034 structures attached to the machine including stairways and catwalks, or other devices that
1035 are required to regulate or control the machine, allow access to the machine, or enhance
1036 or alter its productivity or functionality. The term includes repair or replacement parts.
1037 The term excludes real property and consumable supplies.

1038 (7) 'Machinery clothing' means felts, screen plates, wires, or any other items used to
1039 carry, form, or dry work in process through the manufacture of tangible personal
1040 property.

1041 (8) 'Manufacture of tangible personal property,' used synonymously with the term
1042 'manufacturing,' means a manufacturing operation, series of continuous manufacturing
1043 operations, or series of integrated manufacturing operations, engaged in at a
1044 manufacturing plant or among manufacturing plants to change, process, transform, or
1045 convert industrial materials by physical or chemical means, into articles of tangible
1046 personal property for sale, for promotional use, or for further manufacturing that have a
1047 different form, configuration, utility, composition, or character. The term includes, but
1048 is not limited to, the storage, preparation, or treatment of industrial materials; assembly
1049 of finished units of tangible personal property to form a new unit or units of tangible
1050 personal property; movement of industrial materials and work in process from one

1051 manufacturing operation to another; temporary storage between two points in a
1052 continuous manufacturing operation; random and sample testing that occurs at a
1053 manufacturing plant; and a packaging operation that occurs at a manufacturing plant.

1054 (9) 'Manufacturer' means a person or business, or a location of a person or business, that
1055 is engaged in the manufacture of tangible personal property for sale or further
1056 manufacturing. To be considered a manufacturer, the person or business, or the location
1057 of a person or business, must be:

1058 (A) Classified as a manufacturer under the 2007 North American Industrial
1059 Classification System Sectors 21, 31, 32, or 33, or North American Industrial
1060 Classification System industry code 22111 or specific code 511110; or

1061 (B) Generally regarded as being a manufacturer.

1062 Businesses that are primarily engaged in providing personal or professional services, or
1063 in the operation of retail outlets, generally including, but not limited to, grocery stores,
1064 pharmacies, bakeries, or restaurants, are not considered manufacturers.

1065 (10) 'Manufacturing plant' means any facility, site, or other area where a manufacturer
1066 engages in the manufacture of tangible personal property.

1067 (11) 'Packaging operation' means bagging, boxing, crating, canning, containerizing,
1068 cutting, measuring, weighing, wrapping, labeling, palletizing, or other similar processes
1069 necessary to prepare or package manufactured products in a manner suitable for sale or
1070 delivery to customers as finished goods, or suitable for the transport of work in process
1071 at or among manufacturing plants for further manufacturing, and the movement of such
1072 finished goods or work in process to a storage or distribution area at a manufacturing
1073 plant.

1074 (12) 'Packaging supplies' means materials including, but not limited to, containers,
1075 labels, sacks, boxes, wraps, fillers, cones, cores, pallets, or bags used in a packaging
1076 operation solely for packaging tangible personal property.

1077 (13) 'Real property' means land, any buildings thereon, and any fixtures attached thereto.

1078 (14) 'Repair or replacement part' means a part for any machinery or equipment that is
1079 necessary and integral to the manufacture of tangible personal property. Repair or
1080 replacement parts must be used to maintain, repair, restore, install, or upgrade such
1081 machinery or equipment that is necessary and integral to the manufacture of tangible
1082 personal property. Examples of repair and replacement parts may include, but are not
1083 limited to, oils, greases, hydraulic fluids, coolants, lubricants, machinery clothing, molds,
1084 dies, waxes, jigs, and other interchangeable tooling.

1085 (15) 'Substantial purpose' means the purpose for which an item of tangible personal
1086 property is used more than one-third of the time of the total amount of time that the item

1087 is in use; alternatively, instead of time, the purpose may be measured in terms of other
 1088 applicable criteria including, but not limited to, the number of items produced,

1089 (b) The sales and use taxes levied or imposed by this article shall not apply to the sale, use,
 1090 or storage of machinery or equipment which is necessary and integral to the manufacture
 1091 of tangible personal property, and the sale, use, storage, or consumption of industrial
 1092 materials or packaging supplies.

1093 (c)(1) As used in this subsection, the term 'local sales and use tax' shall mean any sales tax,
 1094 use tax, or local sales and use tax which is levied and imposed in an area consisting of less
 1095 than the entire state, however authorized, including, but not limited to, such taxes
 1096 authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an
 1097 Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan
 1098 Atlanta Rapid Transit Authority Act of 1965'; by or pursuant to any article of this chapter.

1099 (2) The sales and use taxes levied or imposed by this article shall not apply to the sale,
 1100 use, storage, or consumption of energy which is necessary and integral to the manufacture
 1101 of tangible personal property as follows:

1102 (A) For the period commencing January 1, 2013, and concluding at the last moment
 1103 of December 31, 2013, such sale, use, storage, or consumption shall be exempt from
 1104 an amount equal to 33 percent of the total amount of state sales and use tax that would
 1105 be collected at the rate of 4 percent on such sale, use, storage, or consumption and shall
 1106 be exempt from an amount equal to 33 percent of the total amount of each local sales
 1107 and use tax that would be collected at the rate of 1 percent on such sales, use, storage,
 1108 or consumption;

1109 (B) For the period commencing January 1, 2014, and concluding at the last moment
 1110 of December 31, 2014, such sale, use, storage, or consumption shall be exempt from
 1111 an amount equal to 67 percent of the total amount of state sales and use tax that would
 1112 be collected at the rate of 4 percent on such sale, use, storage, or consumption and shall
 1113 be exempt from an amount equal to 67 percent of the total amount of each local sales
 1114 and use tax that would be collected at the rate of 1 percent on such sales, use, storage,
 1115 or consumption; and

1116 (C) On or after January 1, 2015, such sale, use, storage, or consumption shall be
 1117 exempt from all state and local sales and use taxes.

1118 (d) The exemption under this Code section shall be applied as follows:

1119 (1) The manufacture of tangible personal property commences as industrial materials are
 1120 received at a manufacturing plant and concludes once the packaging operation is
 1121 complete and the tangible personal property is ready for sale or shipment, regardless of
 1122 whether the manufacture of tangible personal property occurs at one or more separate
 1123 manufacturing plants;

1124 (2) For machinery or equipment that has multiple purposes, some purposes necessary and
 1125 integral to the manufacture of tangible personal property, and some purposes not
 1126 necessary and integral to the manufacture of tangible personal property, the substantial
 1127 purpose of such machinery or equipment will prevail for purposes of determining the
 1128 eligibility for exemption. The commissioner shall consider any reasonable methodology
 1129 for measuring the substantial purpose of machinery or equipment for which the
 1130 substantial purpose is not readily identifiable;

1131 (3) For leased machinery or equipment that did not qualify for an exemption at the date
 1132 of lease inception and subsequently qualifies for the exemption under this Code section,
 1133 the exemption shall apply to all lease payments made subsequent to such qualification;

1134 (4) Miscellaneous spare parts for which the ultimate use of the spare parts is unknown
 1135 at the time of purchase are eligible for the exemption as repair or replacement parts.
 1136 However, use tax must be accrued and remitted if spare parts are withdrawn from the
 1137 inventory of spare parts and used for any purpose other than to maintain, repair, restore,
 1138 install, or upgrade machinery or equipment that is necessary and integral to the
 1139 manufacture of tangible personal property; and

1140 (5) Energy necessary and integral to the manufacture of tangible personal property
 1141 includes energy used to operate machinery or equipment, to create conditions necessary
 1142 for the manufacture of tangible personal property, or to perform an actual part of the
 1143 manufacture of tangible personal property; energy used in administrative or other
 1144 ancillary activities that are located and performed at the manufacturing plant as long as
 1145 such activities primarily benefit such manufacture of tangible personal property; energy
 1146 used in related operations that convey, transport, handle, or store raw materials or
 1147 finished goods at the manufacturing plant; energy used for heating, cooling, ventilation,
 1148 illumination, fire safety or prevention, and personal comfort and convenience of the
 1149 manufacturer's employees at the manufacturing plant; and energy used for any other
 1150 purpose at a manufacturing plant.

1151 (e) Examples that will qualify as necessary and integral to the manufacture of tangible
 1152 personal property include, but are not limited to:

1153 (1) Machinery or equipment used to convey or transport industrial materials, work in
 1154 process, consumable supplies, or packaging materials at or among manufacturing plants,
 1155 or to convey and transport finished goods to a distribution or storage point at the
 1156 manufacturing plant. Specific examples may include, but are not limited to, forklifts,
 1157 conveyors, cranes, hoists, and pallet jacks;

1158 (2) Machinery or equipment used to gather, arrange, sort, mix, measure, blend, heat,
 1159 cool, clean, or otherwise treat, prepare, or store industrial materials for further
 1160 manufacturing;

- 1161 (3) Machinery or equipment used to control, regulate, heat, cool, or produce energy for
 1162 other machinery or equipment that is necessary and integral to the manufacture of
 1163 tangible personal property. Specific examples may include, but are not limited to,
 1164 boilers, chillers, condensers, water towers, dehumidifiers, humidifiers, heat exchangers,
 1165 generators, transformers, motor control centers, solar panels, air dryers, and air
 1166 compressors;
- 1167 (4) Testing and quality control machinery or equipment located at a manufacturing plant
 1168 used to test the quality of industrial materials, work in process, or finished goods;
- 1169 (5) Starters, switches, circuit breakers, transformers, wiring, piping, and other electrical
 1170 components, including associated cable trays, conduit, and insulation, located between
 1171 a motor control center and exempt machinery or equipment, or between separate units of
 1172 exempt machinery or equipment;
- 1173 (6) Machinery or equipment used to maintain, clean, or repair exempt machinery or
 1174 equipment;
- 1175 (7) Machinery or equipment used to provide safety for the employees working at a
 1176 manufacturing plant including, but not limited to, safety machinery and equipment
 1177 required by federal or state law, gloves, ear plugs, face masks, protective eyewear, hard
 1178 hats or helmets, or breathing apparatuses, regardless of whether the items would
 1179 otherwise be considered consumable supplies;
- 1180 (8) Machinery or equipment used to condition air or water to produce conditions
 1181 necessary for the manufacture of tangible personal property, including pollution control
 1182 machinery or equipment and water treatment systems;
- 1183 (9) Pollution control, sanitizing, sterilizing, or recycling machinery or equipment;
- 1184 (10) Industrial materials bought for further processing in the manufacture of tangible
 1185 personal property for sale or further processing or any part of the industrial material or
 1186 by-product thereof which becomes a wasteful product contributing to pollution problems
 1187 and which is used up in a recycling or burning process;
- 1188 (11) Machinery or equipment used to manufacture tangible personal property to be used
 1189 for promotional use;
- 1190 (12) Machinery or equipment used in quarrying and mining activities, including blasting,
 1191 extraction, and crushing; and
- 1192 (13) Energy used at a manufacturing plant."

1193 **SECTION 2-6.**

1194 Said Title 48 is further amended by adding a new Code section to read as follows:

1195 "48-8-3.3.

1196 (a) As used in this Code section, the term:

1197 (1)(A) 'Agricultural machinery and equipment' means machinery and equipment used
 1198 in the production of agricultural products, including, but not limited to, machinery and
 1199 equipment used in the production of poultry and eggs for sale, including, but not limited
 1200 to, equipment used in the cleaning or maintenance of poultry houses and the
 1201 surrounding premises; in hatching and breeding of poultry and the breeding of livestock
 1202 and equine; in production, processing, and storage of fluid milk for sale; in drying,
 1203 ripening, cooking, further processing, or storage of agricultural products, including, but
 1204 not limited to, orchard crops; in production of livestock and equine for sale; by a
 1205 producer of poultry, eggs, fluid milk, equine, or livestock for sale; for the purpose of
 1206 harvesting agricultural products to be used on the farm by that producer as feed for
 1207 poultry, equine, or livestock; directly in tilling the soil or in animal husbandry when the
 1208 machinery is incorporated for the first time or as additional machinery for the first time
 1209 into a new or an existing farm unit engaged in tilling the soil or in animal husbandry in
 1210 this state; directly in tilling the soil or in animal husbandry when the machinery is
 1211 bought to replace machinery in an existing farm unit already engaged in tilling the soil
 1212 or in animal husbandry in this state; machinery and equipment used exclusively for
 1213 irrigation of agricultural products including, but not limited to, fruit, vegetable, and nut
 1214 crops; and machinery and equipment used to cool agricultural products in storage
 1215 facilities.

1216 (B) 'Agricultural machinery and equipment' also means farm tractors and attachments
 1217 to the tractors; off-road vehicles used primarily in the production of nursery and
 1218 horticultural crops; self-propelled fertilizer or chemical application equipment sold to
 1219 persons engaged primarily in producing agricultural products for sale and which are
 1220 used exclusively in tilling, planting, cultivating, and harvesting agricultural products,
 1221 including, but not limited to, growing, harvesting, or processing onions, peaches,
 1222 blackberries, blueberries, or other orchard crops, nursery, and other horticultural crops;
 1223 devices and containers used in the transport and shipment of agricultural products;
 1224 pecan sprayers, pecan shakers, and other equipment used in harvesting pecans sold to
 1225 persons engaged in the growing, harvesting, and production of pecans; and off-road
 1226 equipment and related attachments which are sold to or used by persons engaged
 1227 primarily in the growing or harvesting of timber and which are used exclusively in site
 1228 preparation, planting, cultivating, or harvesting timber. Equipment used in harvesting
 1229 shall include all off-road equipment and related attachments used in every forestry
 1230 procedure starting with the severing of a tree from the ground until and including the
 1231 point at which the tree or its parts in any form has been loaded in the field in or on a
 1232 truck or other vehicle for transport to the place of use. Such off-road equipment shall
 1233 include, but not be limited to, skidders, feller bunchers, debarkers, delimiters, chip

1234 harvestors, tub-grinders, woods cutters, chippers of all types, loaders of all types,
 1235 dozers, mid-motor graders, and the related attachments; grain bins and attachments to
 1236 grain bins; any repair, replacement, or component parts installed on agricultural
 1237 machinery and equipment; trailers used to transport agricultural products; all-terrain
 1238 vehicles and multipassenger rough-terrain vehicles; and any other off-road vehicles
 1239 used directly and principally in the production of agricultural or horticultural products.

1240 (2) 'Agricultural operations' or 'agricultural products' means raising, growing, harvesting,
 1241 or storing of crops; feeding, breeding, or managing livestock, equine, or poultry;
 1242 producing or storing feed for use in the production of livestock, including, but not limited
 1243 to, cattle, calves, swine, hogs, goats, sheep, equine, and rabbits, or for use in the
 1244 production of poultry, including, but not limited to, chickens, hens, ratites, and turkeys;
 1245 producing plants, trees, Christmas trees, fowl, equine, or animals; or the production of
 1246 aquacultural, horticultural, viticultural, silvicultural, grass sod, dairy, livestock, poultry,
 1247 eggs, and apiarian products. Agricultural products are considered grown in this state if
 1248 such products are grown, produced, or processed in this state, whether or not such
 1249 products are composed of constituent products grown or produced outside this state.

1250 (3) 'Agricultural production inputs' means seed; seedlings; plants grown from seed,
 1251 cuttings or liners; fertilizers; insecticides; livestock and poultry feeds, drugs, and
 1252 instruments used for the administration of such drugs; fencing products and materials
 1253 used to produce agricultural products; fungicides; rodenticides; herbicides; defoliants;
 1254 soil fumigants; plant growth regulating chemicals; desiccants, including, but not limited
 1255 to, shavings and sawdust from wood, peanut hulls, fuller's earth, straw, and hay; feed for
 1256 animals, including, but not limited to, livestock, fish, equine, hogs, or poultry; sugar used
 1257 as food for honeybees kept for the commercial production of honey, beeswax, and
 1258 honeybees; cattle, hogs, sheep, equine, poultry, or bees when sold for breeding purposes;
 1259 ice or other refrigerants including, but not limited to, nitrogen, carbon dioxide, ammonia,
 1260 and propylene glycol used in the processing for market or the chilling of agricultural
 1261 products in storage facilities, rooms, compartments, or delivery trucks; materials,
 1262 containers, crates, boxes, labels, sacks, bags, or bottles used for packaging agricultural
 1263 products when the product is either sold in the containers, sacks, bags, or bottles directly
 1264 to the consumer or when such use is incidental to the sale of the product for resale;
 1265 containers, plastic, canvas, and other fabrics used in the care and raising of agricultural
 1266 products or canvas used in covering feed bins, silos, greenhouses, and other similar
 1267 storage structures.

1268 (4) 'Energy used in agriculture' means fuels used for agricultural purposes, including, but
 1269 not limited to, off-road diesel, propane, butane, electricity, natural gas, wood, wood
 1270 products, or wood byproducts; liquefied petroleum gas or other fuel used in structures in

1271 which broilers, pullets, or other poultry are raised, in which swine are raised, in which
 1272 dairy animals are raised or milked or where dairy products are stored on a farm, in which
 1273 agricultural products are stored, and in which plants, seedlings, nursery stock, or floral
 1274 products are raised primarily for the purposes of making sales of such plants, seedlings,
 1275 nursery stock, or floral products for resale; electricity or other fuel for the operation of
 1276 an irrigation system which is used on a farm exclusively for the irrigation of agricultural
 1277 products; and electricity or other fuel used in the drying, cooking, or further processing
 1278 of raw agricultural products, including, but not limited to, food processing of raw
 1279 agricultural products.

1280 (5) 'Qualified agriculture producer' includes producers of agricultural products that meet
 1281 one of the following criteria:

1282 (A) The person or entity is the owner or lessee of agricultural land or other real
 1283 property from which \$2,500.00 or more of agricultural products were produced and
 1284 sold during the year, including payments from government sources;

1285 (B) The person or entity is in the business of providing for-hire custom agricultural
 1286 services including, but not limited to, plowing, planting, harvesting, growing, animal
 1287 husbandry or the maintenance of livestock, raising or substantially modifying
 1288 agricultural products, or for the maintenance of agricultural land from which \$2,500.00
 1289 or more of such services were provided during the year;

1290 (C) The person or entity is the owner of land that qualifies for taxation under the
 1291 qualifications of bona fide conservation use property as defined in Code Section
 1292 48-5-7.4 or qualifies for taxation under the provisions of the Georgia Forest Land
 1293 Protection Act as defined in Code Section 48-5-7.7;

1294 (D) The person or entity is in the business of producing long-term agricultural products
 1295 from which there might not be annual income, including, but not limited to, timber,
 1296 pulpwood, orchard crops, pecans, and horticultural or other multiyear agricultural or
 1297 farm products. Applicants must demonstrate that sufficient volumes of such long-term
 1298 agricultural products will be produced which have the capacity to generate at least
 1299 \$2,500.00 in sales annually in the future; or

1300 (E) The person or entity must establish, to the satisfaction of the Commissioner of
 1301 Agriculture, that the person or entity is actively engaged in the production of
 1302 agricultural products and has or will have created sufficient volumes to generate at least
 1303 \$2,500.00 in sales annually.

1304 (b) The sales and use taxes levied or imposed by this article shall not apply to sales to, or
 1305 use by, a qualified agriculture producer of agricultural production inputs, energy used in
 1306 agriculture, and agricultural machinery and equipment.

1307 (c) The Commissioner of Agriculture, at his or her discretion, may use one or both of the
 1308 following criteria as a tool to determine eligibility under this Code section:

1309 (1) Business activity on IRS schedule F (Profit or Loss from Farming); or

1310 (2) Farm rental activity on IRS form 4835 (Farm Rental Income and Expenses) or
 1311 schedule E (Supplemental Income and Loss).

1312 (d) Qualified applicants will be issued by the Commissioner of Agriculture an agricultural
 1313 sales and use tax exemption certificate which contains an exemption number. To facilitate
 1314 the use of the exemption certificate, a wallet-sized card containing that same information
 1315 will also be issued by the Commissioner of Agriculture.

1316 (e) The Commissioner of Agriculture is authorized to promulgate rules and regulations
 1317 governing the issuance of agricultural exemption certificates and the administration of this
 1318 program. The Commissioner of Agriculture is authorized to establish an oversight board
 1319 and direct staff and is authorized to charge annual fees of not less than \$15.00 nor more
 1320 than \$25.00 per year in accordance with Code Section 2-1-5, but in no event shall the total
 1321 amount of the proceeds from such fees exceed the cost of administering the program."

1322 **SECTION 2-7.**

1323 Title 2 of the Official Code of Georgia Annotated, relating to agriculture, is amended by
 1324 revising Code Section 2-1-5, relating to certain agricultural annual license fees, as follows:
 1325 "2-1-5.

1326 (a) An individual conducting business as a grain dealer, commercial feed dealer, and grain
 1327 warehouseman shall pay an annual license fee in an amount not less than \$1,500.00 nor
 1328 more than \$3,000.00. Any fees collected pursuant to this Code section shall be retained
 1329 pursuant to the provisions of Code Section 45-12-92.1.

1330 (b) A qualified agriculture producer, as defined in Code Section 48-8-3.2, shall pay an
 1331 annual license fee in an amount not less than \$15.00 nor more than \$25.00 but in no event
 1332 shall the total amount of the proceeds from such fees exceed the cost of administering the
 1333 program under Code Section 48-8-3.3. Any fees collected pursuant to this Code section
 1334 shall be retained pursuant to the provisions of Code Section 45-12-92.1."

1335 **SECTION 2-8.**

1336 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 1337 amended in Code Section 48-8-30, relating to imposition of sales and use taxes, by adding
 1338 a new subsection to read as follows:

1339 "(b.1)(1) As used in this subsection, the term:

1340 (A) 'Aircraft' means any aircraft which is required to be registered with the Federal
 1341 Aviation Administration.

1342 (B) 'Immediate family member' means spouse, parent, child, or sibling.

1343 (C) 'Motor vehicle' shall have the same meaning as provided in paragraph (33) of Code
 1344 Section 40-1-1.

1345 (D) 'Vessel' shall have the same meaning as provided in paragraph (25) of Code
 1346 Section 52-7-3.

1347 (2) In the case of a transaction where the tax under this Code section is not levied and
 1348 collected under paragraph (1) of subsection (b) of this Code section, except as provided
 1349 in paragraph (3) of this subsection, every purchaser of tangible personal property,
 1350 including, but not limited to, a motor vehicle, vessel, and aircraft which is or which is
 1351 required to be titled or registered by or in this state shall be liable for a tax on the
 1352 purchase at the rate of 4 percent of the sales price. Every such purchaser shall make a
 1353 return and remit the tax using such forms as prescribed by the commissioner at the time
 1354 of applying for a title or transfer of title or registration. Failure to make such return and
 1355 remit such tax shall be cause to deny the issuance of a title or registration for such
 1356 tangible personal property.

1357 (3) In the event of a transfer of ownership of tangible personal property which is
 1358 otherwise subject to the tax under paragraph (2) of this subsection from an immediate
 1359 family member to another immediate family member such transfer shall be exempt from
 1360 such tax.

1361 (4) With respect to motor vehicles, the tax under this Code section shall be collected
 1362 pursuant to Code Section 40-2-23.

1363 (5) With respect to vessels, the tax under this Code section shall be collected by the
 1364 Department of Natural Resources prior to the issuance of the certificate of number
 1365 required under Code Section 52-7-5. Proceeds so collected shall be remitted monthly to
 1366 the Department of Revenue.

1367 (6) With respect to aircraft, the tax under this Code section shall be collected by the
 1368 department prior to the issuance of the certificate of registration following a transfer of
 1369 ownership."

1370 **PART III**

1371 **SECTION 3-1.**

1372 The General Assembly recognizes that the communications industry has become increasingly
 1373 competitive and that the distinctions among the providers of the various types of
 1374 communications services have become blurred. The General Assembly desires to treat
 1375 similar services consistently under the tax laws of this state. Accordingly, the General
 1376 Assembly finds that it is no longer appropriate for the providers of certain types of

1377 communications services to be required to pay a myriad of local taxes, licenses, and fees
 1378 while other communications service providers are not required to pay some or all of such
 1379 taxes, licenses, and fees. The General Assembly finds, however, that it is in the best interests
 1380 of the state and its political subdivisions that the tax revenues available to such political
 1381 subdivisions not be diminished by the elimination of certain local taxes, licenses, and fees
 1382 imposed on communications service providers; and that a state level communications
 1383 services tax imposed equitably on communications services is expected at a minimum to
 1384 provide to each such political subdivision comparable tax revenues to the local taxes,
 1385 licenses, and fees that should be eliminated. The General Assembly further finds that, in
 1386 order to promote investment in Georgia's communications infrastructure and since the
 1387 communications services sold will be taxed, the equipment purchased to provide such
 1388 communications services should be exempt from state and local sales tax. The General
 1389 Assembly further finds that a state-wide communications services tax in lieu of other taxes
 1390 on communications would promote simplicity, uniformity, and efficiency in the
 1391 administration of and compliance with the taxes on communications services which is in the
 1392 best interests of the state.

1393 **SECTION 3-2.**

1394 This part of this Act shall be known and may be cited as the "Georgia Communications
 1395 Services Tax Act."

1396 **SECTION 3-3.**

1397 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 1398 amended in Code Section 48-8-2, relating to definitions regarding sales and use tax, by
 1399 revising paragraphs (31), (34), and (39) and by adding new paragraphs to read as follows:

1400 "(4.1) 'Call center' means one or more locations that utilize telecommunications services
 1401 in one or more of the following activities: customer services, soliciting sales, reactivating
 1402 dormant accounts, conducting surveys or research, fundraising, collection of receivables,
 1403 receiving reservations, receiving orders, or taking orders."

1404 "(5.1) 'Communications services' means telecommunications services, ancillary services,
 1405 and video programming services."

1406 "(11.1) 'Direct broadcast satellite service' means the distribution or broadcasting of video
 1407 programming or services by satellite directly to a subscriber's or customer's receiving
 1408 equipment."

1409 "(18.1) 'Mobile telecommunications service' has the same meaning given to such term
 1410 in Section 124(7) of the Mobile Telecommunications Sourcing Act, P.L.106-252,
 1411 4 U.S.C. 124(7)."

1412 "(31) 'Retail sale' or a 'sale at retail' means any sale, lease, or rental for any purpose other
 1413 than for resale, sublease, or subrent. Sales for resale must be made in strict compliance
 1414 with the commissioner's rules and regulations. Any dealer making a sale for resale which
 1415 is not in strict compliance with the commissioner's rules and regulations shall ~~himself~~ be
 1416 liable for and shall pay the tax. The terms 'retail sale' or 'sale at retail' include but are not
 1417 limited to the following:

1418 (A) Except as otherwise provided in this chapter, the sale of natural or artificial gas,
 1419 oil, electricity, solid fuel, transportation, ~~local telephone service~~ prepaid calling service
 1420 and prepaid wireless calling service, alcoholic beverages, and tobacco products, when
 1421 made to any purchaser for purposes other than resale. Sales of communications
 1422 services other than prepaid calling service and prepaid wireless calling service shall not
 1423 be 'retail sales' or 'sales at retail' for purposes of this chapter and shall not be subject to
 1424 the tax imposed by this chapter;

1425 (B) The sale or charges for any room, lodging, or accommodation furnished to
 1426 transients by any hotel, inn, tourist camp, tourist cabin, or any other place in which
 1427 rooms, lodgings, or accommodations are regularly furnished to transients for a
 1428 consideration. This tax shall not apply to rooms, lodgings, or accommodations supplied
 1429 for a period of 90 continuous days or more;

1430 (C) Sales of tickets, fees, or charges made for admission to, or voluntary contributions
 1431 made to places of, amusement, sports, or entertainment, including, but not limited to:

- 1432 (i) Billiard and pool rooms;
- 1433 (ii) Bowling alleys;
- 1434 (iii) Amusement devices;
- 1435 (iv) Musical devices;
- 1436 (v) Theaters;
- 1437 (vi) Opera houses;
- 1438 (vii) Moving picture shows;
- 1439 (viii) Vaudeville;
- 1440 (ix) Amusement parks;
- 1441 (x) Athletic contests including, but not limited to, wrestling matches, prize fights,
 1442 boxing and wrestling exhibitions, football games, and baseball games;
- 1443 (xi) Skating rinks;
- 1444 (xii) Race tracks;
- 1445 (xiii) Public bathing places;
- 1446 (xiv) Public dance halls; and
- 1447 (xv) Any other place at which any exhibition, display, amusement, or entertainment
 1448 is offered to the public or any other place where an admission fee is charged;

1449 (D) Charges made for participation in games and amusement activities;
 1450 (E) Sales of tangible personal property to persons for resale when there is a likelihood
 1451 that the state will lose tax funds due to the difficulty of policing the business operations
 1452 because:

- 1453 (i) Of the operation of the business;
- 1454 (ii) Of the very nature of the business;
- 1455 (iii) Of the turnover of so-called independent contractors;
- 1456 (iv) Of the lack of a place of business in which to display a certificate of registration;
- 1457 (v) Of the lack of a place of business in which to keep records;
- 1458 (vi) Of the lack of adequate records;
- 1459 (vii) The persons are minors or transients;
- 1460 (viii) The persons are engaged in essentially service businesses; or
- 1461 (ix) Of any other reasonable reason.

1462 The commissioner may promulgate rules and regulations requiring vendors of persons
 1463 described in this subparagraph to collect the tax imposed by this article on the retail
 1464 price of the tangible personal property. The commissioner shall refuse to issue
 1465 certificates of registration and may revoke certificates of registration issued in violation
 1466 of his rules and regulations; or

1467 ~~(F) Charges, which applied to sales of telephone service, made for local exchange~~
 1468 ~~telephone service, except coin operated telephone service, except as otherwise provided~~
 1469 ~~in subparagraph (G) of this paragraph; or~~ In the case of a bundled transaction, including
 1470 a transaction that includes any of the following: telecommunication service, ancillary
 1471 service, Internet access, or audio or video programming service:

1472 ~~(G)~~(i) If the price is attributable to products or services that are taxable and products
 1473 or services that are nontaxable, the portion of the price attributable to the nontaxable
 1474 products or services may be subject to tax unless the provider can identify by
 1475 reasonable and verifiable standards such portion from its books and records that are
 1476 kept in the regular course of business for other purposes, including, but not limited to,
 1477 nontax purposes.

1478 (ii) If the price is attributable to products or services that are subject to tax at different
 1479 tax rates or subject to different taxes, the total price may be treated as attributable to
 1480 the products or services subject to tax at the ~~highest tax~~ higher rate or the higher-rate
 1481 tax unless the provider can identify by reasonable and verifiable standards the portion
 1482 of the price attributable to the products subject to tax at the lower rate or the
 1483 lower-rate tax from the provider's books and records that are kept in the regular course
 1484 of business for other purposes, including, but not limited to, nontax purposes."

1485 "(34)(A) 'Sales price' applies to the measure subject to sales tax and means the total
 1486 amount of consideration, including cash, credit, property, and services, for which
 1487 personal property or services are sold, leased, or rented, valued in money, whether
 1488 received in money or otherwise without any deduction for the following:

- 1489 (i) The seller's cost of the property sold;
- 1490 (ii) The cost of materials used, labor, or service cost, interest, losses, all costs of
 1491 transportation to the seller, all taxes imposed on the seller, and any other expense of
 1492 the seller;
- 1493 (iii) Charges by the seller for any services necessary to complete the sale, other than
 1494 delivery and installation charges;
- 1495 (iv) Delivery charges;
- 1496 (v) Installation charges; and
- 1497 (vi) Credit for any trade-in, except as otherwise provided in division (vii) of
 1498 subparagraph (B) of this paragraph.

1499 (B) 'Sales price' shall not include:

- 1500 (i) Discounts, including cash, term, or coupons that are not reimbursed by a third
 1501 party that are allowed by a seller and taken by a purchaser on a sale;
- 1502 (ii) Interest, financing, and carrying charges from credit extended on the sale of
 1503 personal property or services, if the amount is separately stated on the invoice, bill of
 1504 sale or similar document given to the purchaser;
- 1505 (iii) Any taxes legally imposed directly on the consumer that are separately stated on
 1506 the invoice, bill of sale, or similar document given to the purchaser;
- 1507 (iv) Installation charges if they are separately stated on the invoice, billing, or similar
 1508 document given to the purchaser;
- 1509 (v) Charges by the seller for any services necessary to complete the sale if they are
 1510 separately stated on the invoice, billing, or similar document given to the purchaser;
- 1511 (vi) Telecommunications nonrecurring charges if they are separately stated on the
 1512 invoice, billing, or similar document; and
- 1513 (vii) Credit for any motor vehicle trade-in.

1514 (C) 'Sales price' shall include consideration received by the seller from third parties if:

- 1515 (i) The seller actually receives consideration from a party other than the purchaser
 1516 and the consideration is directly related to a price reduction or discount on the sale;
- 1517 (ii) The seller has an obligation to pass the price reduction or discount through to the
 1518 purchaser;
- 1519 (iii) The amount of the consideration attributable to the sale is fixed and determinable
 1520 by the seller at the time of the sale of the item to the purchaser; and
- 1521 (iv) One of the following criteria is met:

1522 (I) The purchaser presents a coupon, certificate, or other documentation to the seller
 1523 to claim a price reduction or discount where the coupon, certificate, or
 1524 documentation is authorized, distributed, or granted by a third party with the
 1525 understanding that the third party will reimburse any seller to whom the coupon,
 1526 certificate, or documentation is presented;

1527 (II) The purchaser identifies himself or herself to the seller as a member of a group
 1528 or organization entitled to a price reduction or discount; provided, however, that a
 1529 'preferred customer' card that is available to any patron shall not constitute
 1530 membership in such a group; or

1531 (III) The price reduction or discount is identified as a third party price reduction or
 1532 discount on the invoice received by the purchaser or on a coupon, certificate, or
 1533 other documentation presented by the purchaser."

1534 "(39) 'Telecommunications service' means the electronic transmission, conveyance, or
 1535 routing of voice, data, audio, video, or any other information or signals to a point, or
 1536 between or among points. The term 'telecommunications service' includes such
 1537 transmission, conveyance, or routing in which computer processing applications are used
 1538 to act on the form, code, or protocol of the content for purposes of transmission,
 1539 conveyance, or routing without regard to whether such service is referred to as voice over
 1540 Internet protocol services or is classified by the Federal Communications Commission
 1541 as enhanced or value added. 'Telecommunications service' shall not include:

1542 (A) Data processing and information services that allow data to be generated, acquired,
 1543 stored, processed, or retrieved and delivered by an electronic transmission to a
 1544 purchaser where such purchaser's primary purpose for the underlying transaction is the
 1545 processed data or information;

1546 (B) Installation or maintenance of wiring or equipment on a customer's premises;

1547 (C) Tangible personal property;

1548 (D) Advertising, including, but not limited to, directory advertising;

1549 (E) Billing and collection services provided to third parties;

1550 (F) Internet access service;

1551 (G) ~~Radio and television audio and video~~ Video programming services, regardless of
 1552 ~~the medium, including the furnishing of transmission, conveyance and routing of such~~
 1553 ~~services by the programming service provider. Radio and television audio and video~~
 1554 ~~programming services shall include but not be limited to cable service as defined in 47~~
 1555 ~~USC 522(6) and audio and video programming services delivered by commercial~~
 1556 ~~mobile radio service providers, as defined in 47 CFR 20.3~~ service;

1557 (H) Ancillary services; or

1558 (I) Digital products delivered electronically, including, but not limited to, software,
1559 music, video, reading materials, or ring tones."

1560 "(42.1) 'Video programming service' means the sale, offering, transmission, conveyance,
1561 or routing of audio or video programming services for purchase by subscribers or
1562 customers, regardless of the medium, technology, or method of display, including the
1563 furnishing of transmission, conveyance, and routing of such programming by the
1564 programming service provider. Such term shall include, but not be limited to:

1565 (A) Cable service, as defined in Section 602(6) of the Communications Act of 1934(47
1566 U.S.C. 522(6));

1567 (B) Interactive on-demand service, as defined in Section 602(12) of such Act
1568 (47 U.S.C. 522(12));

1569 (C) The provision of video programming by a multichannel video programming
1570 distributor, as defined in paragraphs (20) and (13) of Section 602 of such Act (47
1571 U.S.C. 522); and

1572 (D) The distribution of audio or video programming by providers of 'mobile service,'
1573 as defined in Section 20.3 of Title 47 of the Code of Federal Regulations, when such
1574 services are offered for purchase by subscribers or customers of such service."

1575 **SECTION 3-4.**

1576 Said Title 48 is further amended in Code Section 48-8-3, relating to exemptions from sales
1577 and use taxes, by replacing "; or" with a semicolon at the end of paragraph (90), replacing
1578 the period at the end of paragraph (91) with "; or", and by adding a new paragraph to read
1579 as follows:

1580 "(92) The sale of any products or services purchased by a communications services
1581 provider for further commercial broadcast, rebroadcast, transmission, or retransmission,
1582 in whole or in part, to another person as such product or as a communications service."

1583 **SECTION 3-5.**

1584 Said Title 48 is further amended in Code Section 48-8-32, relating to collectability and rates
1585 of sales and use tax, as follows:

1586 "48-8-32.

1587 The tax at the rate of 4 percent of the retail sales price at the time of sale or 4 percent of the
1588 purchase price at the time of purchase, as the case may be, shall be collectable from all
1589 persons engaged as dealers in the sale at retail, or in the use, consumption, distribution, or
1590 storage for use or consumption in this state of tangible personal property, prepaid calling
1591 service, and prepaid wireless calling service."

SECTION 3-6.

1592

1593 Said Title 48 is further amended in Code Section 48-8-39, relating to the effect of certain use
1594 of sales tax certificates, by revising subsection (a) as follows:

1595 "(a) If a purchaser who gives a certificate stating that property is purchased for resale
1596 makes any use of the property other than retention, demonstration, or display while holding
1597 it for sale in the regular course of business, the use shall be deemed a retail sale by the
1598 purchaser as of the time the property is first used by ~~him~~ the purchaser, and the purchase
1599 price of the property to ~~him~~ the purchaser shall be deemed the gross receipts from the retail
1600 sale. If the sole use of the property other than retention, demonstration, or display in the
1601 regular course of business is the rental of the property while holding it for sale or the
1602 transportation of persons for hire while holding the property for sale, the purchaser may
1603 elect to include in ~~his~~ the purchaser's gross receipts either the amount of the rental charged
1604 or the total amount of the charges made by ~~him~~ the purchaser for the transportation rather
1605 than the cost of the property to ~~him~~ the purchaser. If the sole use of the property by a
1606 purchaser, other than retention, demonstration, or display in the regular course of business,
1607 is the transfer of such property, either free of charge or at a sale price not exceeding the
1608 purchase price of the property, to another person in conjunction with such other person
1609 entering into a contract to purchase communications services subject to the tax imposed
1610 under Chapter 18 of this title, then such use shall be treated as a retail sale to such other
1611 person for no consideration, in the case of a transfer that is free of charge, or for the sale
1612 price collected with respect to such transfer."

SECTION 3-7.

1613

1614 Said Title 48 is further amended in Code Section 48-8-42, relating to credit for taxes paid in
1615 other states, by adding a new subsection to read as follows:

1616 "(c) Any communications services provider that erroneously but in good faith pays the tax
1617 imposed by Chapter 18 of this title on an item of tangible personal property or a service
1618 subject to the tax imposed by this chapter shall be allowed a credit against the tax imposed
1619 by this chapter to the extent of the amount of such tax paid."

SECTION 3-8.

1620

1621 Said Title 48 is further amended by repealing subsection (e) of Code Section 48-8-77,
1622 relating to sourcing of local telecommunications services.

SECTION 3-9.

1623

1624 Said Title 48 is further amended by adding a new Code Section to read as follows:

1625 "48-8-78.

1626 (a) As used in this chapter and Chapter 18 of this title, the term:

1627 (1) 'Air-to-ground radiotelephone service' means a radio service, as that term is defined
 1628 in 47 C.F.R. 22.99, in which common carriers are authorized to offer and provide radio
 1629 telecommunications services for hire to subscribers in an aircraft.

1630 (2) 'Call-by-call basis' means any method of charging for telecommunications services
 1631 where the price is measured by individual calls.

1632 (3) 'Communications channel' means a physical or virtual path of communications over
 1633 which signals are transmitted between or among customer channel termination points.

1634 (4) 'Customer' means the person or entity that contracts with the seller of
 1635 telecommunications services. If the end user of the telecommunications service is not the
 1636 contracting party, the end user of the telecommunications service is the customer of the
 1637 telecommunications service but only for the purpose of sourcing sales of
 1638 telecommunications services. Customer does not include a reseller of telecommunications
 1639 service or for mobile telecommunications service of a serving carrier under an agreement
 1640 to serve the customer outside the home service provider's licensed service area.

1641 (5) 'Customer channel termination point' means, in the context of a private
 1642 communications service, the location where the customer either inputs or receives
 1643 communications.

1644 (6) 'End user' means the person who utilizes the telecommunications service. In the case
 1645 of an entity, end user means the individual who utilizes the service on behalf of the entity.

1646 (7) 'Home service provider' has the same meaning given to such term in Section 124(5)
 1647 of the Mobile Telecommunications Sourcing Act, P.L. 106-252, 4 U.S.C. 124(5).

1648 (8) 'Postpaid calling service' means a telecommunications service obtained by making
 1649 a payment on a call-by-call basis either through the use of a credit card or payment
 1650 mechanism such as a bank card, travel card, credit card, or debit card, or by charge made
 1651 to a telephone number which is not associated with the origination or termination of the
 1652 telecommunications service. A postpaid calling service includes a telecommunications
 1653 service, except a prepaid wireless calling service, that would be a prepaid calling service,
 1654 except that the right provided is not exclusively to access telecommunications services.

1655 (9) 'Private communication service' means a telecommunications service that entitles the
 1656 customer to exclusive or priority use of a communications channel or group of channels
 1657 between or among termination points, regardless of the manner in which such channel
 1658 or channels are connected, and includes switching capacity, extension lines, stations, and
 1659 any other associated services that are provided in connection with the use of such channel
 1660 or channels.

1661 (10) 'Service address' means:

1662 (A) The location of the telecommunications equipment to which a customer's call is
 1663 charged and from which the call originates or terminates, regardless of where the call
 1664 is billed or paid;

1665 (B) If the location under subparagraph (A) of this paragraph is not known, 'service
 1666 address' means the origination point of the signal of the telecommunications service
 1667 first identified by either the seller's telecommunications system or, in information
 1668 received by the seller from its service provider, where the system used to transport such
 1669 signal is not that of the seller; or

1670 (C) If the locations under both subparagraphs (A) and (B) of this paragraph are not
 1671 known, 'service address' means the location of the customer's place of primary use.

1672 (b) The provisions of this Code section are solely for the purposes of sourcing
 1673 communications services, the taxability of which is governed by this chapter with respect
 1674 to prepaid calling services and prepaid wireless calling service and Chapter 18 of this title
 1675 with respect to all other communications services.

1676 (c) The following sourcing rules shall apply to telecommunications services:

1677 (1) Except as otherwise provided in paragraph (4) of this subsection, telecommunications
 1678 services sold on a call-by-call basis shall be sourced to this state if either of the following
 1679 occurs:

1680 (A) The call both originates and terminates in this state; or

1681 (B) The call either originates in this state or terminates in this state, and the service
 1682 address associated with the call is located in this state;

1683 (2) Except as otherwise provided in paragraph (4) of this subsection, telecommunications
 1684 services sold on a basis other than a call-by-call basis shall be sourced to this state if the
 1685 telecommunications service is charged to a customer whose place of primary use is in this
 1686 state;

1687 (3) Except as otherwise provided in paragraph (4) of this subsection, mobile
 1688 telecommunications services provided by a customer's home service provider shall be
 1689 sourced to this state if the customer's place of primary use is in this state; and

1690 (4) Notwithstanding the provisions of paragraphs (1), (2), and (3) of this subsection, the
 1691 following rules shall apply:

1692 (A) Air-to-ground radio telephone services shall be sourced to this state if the
 1693 customer's place of primary use is located in this state;

1694 (B) Postpaid calling services shall be sourced to this state if the origination point of the
 1695 telecommunications signal is located in this state, as first identified by either of the
 1696 following:

1697 (i) The seller's telecommunications system; or

1698 (ii) Information received by the seller from its service provider, where the system
 1699 used to transport such signals is not that of the seller;
 1700 (C) Private communications services shall be sourced to this state under the following
 1701 rules:
 1702 (i) Service for a separate charge related to a customer channel termination point shall
 1703 be sourced to this state if the customer channel termination point is located in this
 1704 state;
 1705 (ii) Service for a separate charge for the use of a channel that is exclusively between
 1706 two channel termination points located in this state shall be sourced to this state; and
 1707 (iii) Where channel termination points of a channel are located both within and
 1708 outside this state:
 1709 (I) Fifty percent of any separate charge for a segment of a channel between two
 1710 such channel termination points; and
 1711 (II) To the extent that the charge for any segment or segments of a channel is not
 1712 separately billed, an amount equal to the total charge for such channel segment or
 1713 segments multiplied by a fraction, the numerator of which is the number of channel
 1714 termination points located in this state and the denominator of which is the total
 1715 number of channel termination points; and
 1716 (D) A sale of prepaid calling service or a sale of a prepaid wireless calling service shall
 1717 be sourced in accordance with subsection (b) of Code Section 48-8-77; provided,
 1718 however, that in the case of a sale of prepaid wireless calling service, the rule provided
 1719 in subparagraph (b)(1)(E) of Code Section 48-8-77 shall include as an option the
 1720 location associated with the mobile telephone number.
 1721 (d) All communications services other than telecommunications services shall be sourced
 1722 to the customer's place of primary use if located in this state."

1723 **SECTION 3-10.**

1724 Said Title 48 is further amended by adding a new chapter to read as follows:

1725 "CHAPTER 18

1726 48-18-1.

1727 (a) Except as otherwise provided in this Code section, there is imposed on the sales price,
 1728 as defined in paragraph (34) of Code Section 48-8-2, paid for the retail purchase of
 1729 communications services, as defined in paragraph (5.1) of Code Section 48-8-2, that are
 1730 sourced to this state under Code Section 48-8-78 the following:

1731 (1) A state tax on direct broadcast satellite service at the rate of 7 percent;

- 1732 (2) A state tax on communications services other than direct broadcast satellite service
1733 at a rate of 3.5 percent; and
- 1734 (3) A local tax on communications services other than direct broadcast satellite service
1735 at the rate of 3.5 percent.
- 1736 (b) It is the intent of the legislature that a total combined state and local tax rate of 7
1737 percent shall be imposed on all communications services throughout the state.
- 1738 (c) The tax imposed by this chapter shall be paid by the person paying for such
1739 communications services and shall be collected from such person by the retailer and
1740 remitted to the department pursuant to Code Section 48-18-5.
- 1741 (d) No sale of communications services shall be taxable to the person furnishing the
1742 communications services which is not taxable to the purchaser of the communications
1743 services.
- 1744 (e) The sales price paid for the retail purchase of communications services shall not
1745 include amounts paid for or attributable to:
- 1746 (1) Communications services which are resold, used as a component part of, or
1747 integrated into a communications service provided to the ultimate retail purchaser who
1748 originates or terminates the taxable end-to-end communication, including, but not limited
1749 to, carrier access charges, right of access charges, interconnection charges paid by the
1750 providers of mobile telecommunications services or other communications services,
1751 charges paid by cable or video service providers for the transmission of video or other
1752 programming by another communications service provider over facilities owned or
1753 operated by such other communications service provider, charges for the sale of
1754 unbundled network elements, and charges for use of intercompany facilities;
- 1755 (2) Coin operated telephone service;
- 1756 (3) Communications services provided to any person or entity exempt from the tax
1757 imposed by Chapter 8 of this title;
- 1758 (4) Discounts, bad debts, taxes, or any other deduction to the extent allowed as a
1759 deduction under Chapter 8 of this title;
- 1760 (5) Prepaid calling service, prepaid wireless calling service, tangible personal property,
1761 or services subject to tax pursuant to Chapter 8 of this title; or
- 1762 (6) Communications services or transactions among entities under 50 percent or greater,
1763 direct or indirect, common control.
- 1764 (f) A retailer of communications services may combine the taxes due under this chapter
1765 and Chapter 8 of this title as a single line item on the retailer's invoice to a purchaser of
1766 communications services.

1767 48-18-2.

1768 (a) Notwithstanding any provision of law to the contrary, with respect to sales of
1769 telecommunications services to any person for use in the operation of one or more call
1770 centers, the state tax imposed by this chapter shall not exceed \$12,500.00 per calendar year
1771 and the local tax imposed by this chapter shall not exceed \$12,500.00 per calendar year.

1772 (b) The limitation set forth in subsection (a) of this Code section shall apply only to
1773 holders of a direct payment number issued by the department. In order to obtain such
1774 direct payment number, the applicant shall establish that the applicant satisfies the criteria
1775 for a call center as defined in paragraph (4.1) of Code Section 48-8-2.

1776 (c) The department shall not issue any refunds of taxes paid prior to receiving a direct
1777 payment number.

1778 (d) All entities wholly owned by the same person or entity shall be considered a single
1779 person.

1780 48-18-3.

1781 (a) To prevent multistate taxation of a communications service subject to taxation under
1782 this chapter, any taxpayer, upon proof that such taxpayer has paid a tax in another state on
1783 such service, shall be allowed a credit against the tax imposed by this chapter to the extent
1784 of the amount of such tax paid in such other state.

1785 (b) Any communications services provider that erroneously but in good faith pays the tax
1786 imposed by Chapter 8 of this title on the provision of communications services shall be
1787 allowed credit against the tax imposed by this chapter to the extent of the amount of such
1788 tax paid.

1789 48-18-4.

1790 All procedural and administrative provisions of Chapters 2 and 8 of this title, including
1791 those which set forth the limitations periods and procedures for assessment, collection,
1792 refunds, and credits, and those which fix penalties and interest for nonpayment of tax and
1793 for noncompliance with the provisions of this title, and all other requirements and duties
1794 imposed upon the taxpayer, shall apply to all taxpayers liable for the communications
1795 services tax imposed under the provisions of this chapter and to all providers of
1796 communications services required to collect and remit such taxes. In addition, all
1797 definitions, sourcing rules, customer remedy rules, and bundled transaction rules, which
1798 have been enacted in compliance with the Streamlined Sales Tax Agreement and codified
1799 in Chapter 8 of this title, shall apply to the communications services tax imposed under the
1800 provisions of this chapter. The commissioner shall exercise all power and authority and
1801 perform all duties with respect to persons obligated under this chapter as are provided in

1802 Chapters 2 and 8, except where there is a conflict, in which case, the provisions of this
 1803 chapter shall control. The commissioner may from time to time make such rules and
 1804 regulations not inconsistent with this chapter as may be deemed necessary to carry out its
 1805 provisions.

1806 48-18-5.

1807 (a) A communications services provider shall be permitted to deduct and retain 2 percent
 1808 of total communications services taxes that are collected and remitted by the provider on
 1809 a timely basis to the department.

1810 (b) The tax imposed by Code Section 48-18-1, including any penalties or interest
 1811 attributable to the nonpayment of such taxes or for noncompliance with the provisions of
 1812 this chapter, shall be collected by the department and shall be accounted for separately
 1813 from all other taxes. One percent of the amounts collected shall be paid into the general
 1814 fund of the state treasury in order to defray the costs of administration.

1815 (c)(1) The remaining amounts collected pursuant to paragraphs (1) and (2) of subsection
 1816 (a) of Code Section 48-18-1 shall be credited in the same manner as the state sales and
 1817 use taxes collected pursuant to Article 1 of Chapter 8 of this title.

1818 (2) The remaining amounts collected pursuant to paragraph (3) of subsection (a) of Code
 1819 Section 48-18-1 shall be distributed as follows:

1820 (A) Each municipality or county that has complied with the requirements of
 1821 subsection (e) of this Code section shall receive an amount equal to the average
 1822 monthly revenues that were received from communications services providers during
 1823 2010 by such municipality or county pursuant to taxes, charges, and fees, other than
 1824 local option sales taxes prohibited by Code Section 48-18-6, which were validly
 1825 imposed and in effect during that time. All or part of the proceeds received by a county
 1826 pursuant to this subparagraph may be expended for services provided within the
 1827 unincorporated area of the county including within any special district created by a
 1828 county for the provision of services in all or parts of the unincorporated area of the
 1829 county;

1830 (B) The amount remaining after the distributions required by subparagraph (A) of this
 1831 paragraph shall be distributed as follows:

1832 (i) Each municipality that has complied with the requirements of subsection (e) of
 1833 this Code section shall receive an amount equal to such remaining amount multiplied
 1834 by a fraction, the numerator of which is the population in such municipality and the
 1835 denominator of which is the total population of this state, using the most recent annual
 1836 estimates of the population of cities and counties in Georgia as prepared by the United
 1837 States Bureau of the Census; and

1838 (ii) Each county that has complied with the requirements of subsection (e) of this
 1839 Code section shall receive an amount equal to such remaining amount multiplied by
 1840 a fraction, the numerator of which is the sum of the population within the
 1841 unincorporated areas of such county and the denominator of which is the total
 1842 population of this state, using the most recent annual estimates of the population of
 1843 cities and counties in Georgia as prepared by the United States Bureau of the Census.

1844 (d)(1) Each county and municipality that received in 2010 taxes, charges, or fees, other
 1845 than local option sales taxes prohibited by Code Section 48-18-6, which were validly
 1846 imposed and in effect during that time shall report the amounts of such taxes, charges, or
 1847 fees received in 2010 to the department by January 31, 2012.

1848 (2) Each communications services provider that paid in 2010 such taxes, charges, or fees,
 1849 other than local option sales taxes prohibited by Code Section 48-8-6 shall report the
 1850 amounts of such taxes, charges, or fees paid in 2010 to the department by January 31,
 1851 2012.

1852 (3) The department shall be charged with reviewing such data from all political
 1853 subdivisions and communications services providers to ensure accuracy and to reconcile
 1854 the data based on the best information available.

1855 (e) Each county and municipality shall impose by ordinance or resolution a local tax on
 1856 communications services other than direct broadcast satellite service pursuant to paragraph
 1857 (3) of subsection (a) of Code Section 48-18-1 under the following conditions:

1858 (1) On or before December 31 of the year prior to enactment, the county or municipality
 1859 shall file with the department a certified copy of the pertinent parts of all ordinances,
 1860 resolutions, and amendments thereto which levy the 3.5 percent tax on communications
 1861 services other than direct broadcast satellite services;

1862 (2) Such ordinance shall have an effective date of January 1 of the following year;

1863 (3) The filing required by this subsection shall be a condition to the imposition of the
 1864 local tax pursuant to paragraph (3) of subsection (a) of Code Section 48-18-1 by a county
 1865 or a municipality; and

1866 (4) If a county or municipality does not file with the department a certified copy of the
 1867 pertinent parts of all ordinances, resolutions, or amendments thereto which levy the 3.5
 1868 percent tax on communications services other than direct broadcast satellite services as
 1869 required in paragraph (1) of this subsection, or if a county or municipality does not
 1870 provide the department with the amount of taxes, charges, or fees received in 2010, as
 1871 required in paragraph (1) of subsection (d) of this Code section, the department shall
 1872 upon receipt of such information distribute such funds on the first day of the next
 1873 succeeding calendar quarter.

1874 (f) Other than for purposes of collecting and remitting certain enhanced 9-1-1 charges,
 1875 providers of communications services shall not be required to identify, report, or source
 1876 communications services or communications services tax on the county or municipal level.

1877 48-18-6.

1878 (a)(1) For purposes of this subsection, the term 'providers of communications services'
 1879 shall include parties providing infrastructure directly involved in the transmission,
 1880 receipt, or processing of radio waves or electrical signals used in the provision or
 1881 provisioning of communications services. Infrastructure shall include, but not be limited
 1882 to, towers, poles, and other structures of whatever kind to which are attached antennas
 1883 or other equipment for the transmission or receipt of radio waves or electrical signals, as
 1884 well as fixtures necessary to affix antennas or other equipment to such towers, poles, or
 1885 structures. Infrastructure shall not include residences or commercial or industrial
 1886 buildings. Parties providing infrastructure are considered providers of communications
 1887 services only to the extent of their provision or provisioning of such infrastructure.

1888 (2) Except as provided in paragraph (4) of this subsection, no county, municipality, or
 1889 other political subdivision of this state shall:

1890 (A) Levy any tax, charge, fee, or other imposition on or with respect to
 1891 communications services, or collect any such tax, charge, fee, or other imposition, from
 1892 providers of communications services;

1893 (B) Require any provider of communications services, including, but not limited to,
 1894 cable service providers or video service providers, to enter into or extend the term of
 1895 a franchise or other agreement which requires the payment of a tax, charge, fee, or other
 1896 imposition; or

1897 (C) Adopt or enforce any provision of any ordinance or agreement to the extent that
 1898 such provision obligates a provider of communications services to pay to the county
 1899 and municipality a tax, charge, fee, or other imposition.

1900 (3) For purposes of this subsection, a tax, charge, fee or other imposition includes any
 1901 amount or in-kind payment of property or services which is required by ordinance or
 1902 agreement to be paid or furnished to a political subdivision by or through a provider of
 1903 communications services in its capacity as a provider of communications services,
 1904 regardless of whether such tax, charge, fee, or in-kind payment of property or services
 1905 is:

1906 (A) Designated as a franchise fee, excise tax, sales tax, services tax, user fee,
 1907 occupancy fee, occupational or business license tax or fee, subscriber charge, tower
 1908 fee, base station fee, or otherwise;

- 1909 (B) Measured by the amounts charged or received for services, the type of equipment
 1910 or facilities deployed, or otherwise;
- 1911 (C) Intended as compensation for the use of public rights of way, the right to conduct
 1912 business, or otherwise; or
- 1913 (D) Permitted or required to be separately stated on the customer's bill.
- 1914 (4) This subsection shall not apply to:
- 1915 (A) Ad valorem taxes levied pursuant to Chapter 5 of this title;
- 1916 (B) Emergency telephone surcharges pursuant to Chapter 5 of Title 46;
- 1917 (C) Amounts charged for the rental or other use of property owned by a public body
 1918 which is not in the public rights of way to a provider of communications services for
 1919 any purpose, including, but not limited to, the placement or attachment of equipment
 1920 used in the provision of communications services;
- 1921 (D) Amounts charged for the rental of space on a utility pole or tower owned by a
 1922 political subdivision of this state, whether in the public right of way or not, for the
 1923 attachment of equipment used in the provision of communications services;
- 1924 (E) Permit fees generally imposed and applicable to a majority of all other businesses,
 1925 which are not related to placing or maintaining facilities in or on public roads or rights
 1926 of way;
- 1927 (F) Taxes, charges, and fees which are ordinary and generally applicable which are
 1928 validly levied and required to be paid by a person in a capacity other than its capacity
 1929 as a provider of communications services. Such taxes, charges, and fees include, by
 1930 way of example, and are not limited to, taxes, charges, and fees for water, sewer,
 1931 electricity, sanitation, police, fire, or other such services, or any special district,
 1932 community improvement district, or similar such district services, or any taxes, fees,
 1933 or assessments imposed to pay bonded indebtedness;
- 1934 (G) Taxes imposed pursuant to paragraph (3) of subsection (a) of Code Section
 1935 48-18-1;
- 1936 (H) Zoning, construction, and similar application fees, provided such fees do not
 1937 exceed the lower of either the actual direct cost incurred by the county or municipality
 1938 in the review of such applications or the amount generally imposed by the county or
 1939 municipality for zoning, construction, and similar applications;
- 1940 (I)(i) Sales and use taxes on the sale to or use by a provider of equipment used in the
 1941 business of providing communications services in this state.
- 1942 (ii) For purposes of this subparagraph, the term 'equipment used in the business of
 1943 providing communications services' means all equipment, machinery, software, or
 1944 other infrastructure that is used in whole or in part in producing, broadcasting, or
 1945 distributing programs; sending, receiving, storing, transmitting, retransmitting,

1946 amplifying, switching, or routing voice, data, or video communications; or which is
 1947 used in monitoring, testing, maintaining, enabling, or facilitating such equipment,
 1948 machinery, software, or other infrastructure. Such term includes, but is not limited
 1949 to, wires, cables, antennas, poles, switches, routers, amplifiers, rectifiers, repeaters,
 1950 receivers, multiplexers, duplexers, transmitters, power equipment, backup power
 1951 equipment, diagnostic equipment, storage devices, modems, and other general central
 1952 office equipment, such as channel cards, frames, and cabinets; and

1953 (J) Any civil penalties or fines, any criminal penalties or fines, or both.

1954 (5) This subsection shall not preempt the provisions of Code Section 25-9-6 or 25-9-13
 1955 and shall not be construed to prohibit a municipality or county from seeking to recover
 1956 the actual direct cost of repairing damage to public streets caused by a communications
 1957 service provider's installation or repair of its facilities.

1958 (b) In establishing guidelines and conditions for placing, constructing, repairing, or
 1959 maintaining communications lines or facilities over, on, under, through, or along any public
 1960 highways, public roads, public streets, or other public places or rights of way, neither the
 1961 state nor any agency or political subdivision thereof shall discriminate between or among
 1962 communications services providers in violation of Section 253(c) of the Communications
 1963 Act of 1934, 47 U.S.C. Section 253(c)."

1964 **SECTION 3-11.**

1965 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
 1966 in Code Section 36-76-2, relating to definitions regarding expedited franchising of cable and
 1967 video services, by revising paragraphs (1) and (8) as follows:

1968 ~~"(1) 'Advertising and home shopping services revenues' means the amount of a cable~~
 1969 ~~service provider or video service provider's nonsubscriber revenues from advertising~~
 1970 ~~disseminated through cable service or video service and home shopping services. The~~
 1971 ~~amount of such revenues that are allocable to a municipality or county shall be equal to~~
 1972 ~~the total amount of the cable service provider or video service provider's revenue received~~
 1973 ~~from such advertising and home shopping services multiplied by the ratio of the number~~
 1974 ~~of such provider's subscribers located in such municipality or in the unincorporated area~~
 1975 ~~of such county to the total number of such provider's subscribers. Such ratio shall be~~
 1976 ~~based on the number of such provider's subscribers as of January 1 of the current year,~~
 1977 ~~except that in the first year in which services are provided, such ratio shall be computed~~
 1978 ~~as of the earliest practical date Reserved."~~

1979 ~~"(8) 'Gross revenues' means all revenues received from subscribers for the provision of~~
 1980 ~~cable service or video service, including franchise fees for cable service providers and~~
 1981 ~~video service providers, and advertising and home shopping services revenues and shall~~

1982 ~~be determined in accordance with generally accepted accounting principles. Gross~~
 1983 ~~revenues shall not include:~~

1984 ~~(A) Amounts billed and collected as a line item on the subscriber's bill to recover any~~
 1985 ~~taxes, surcharges, or governmental fees that are imposed on or with respect to the~~
 1986 ~~services provided or measured by the charges, receipts, or payments therefor; provided,~~
 1987 ~~however, that for purposes of this Code section, such tax, surcharge, or governmental~~
 1988 ~~fee shall not include any ad valorem taxes, net income taxes, or generally applicable~~
 1989 ~~business or occupation taxes not measured exclusively as a percentage of the charges,~~
 1990 ~~receipts, or payments for services;~~

1991 ~~(B) Any revenue, such as bad debt, not actually received, even if billed;~~

1992 ~~(C) Any revenue received by any affiliate or any other person in exchange for~~
 1993 ~~supplying goods or services used by the provider to provide cable service or video~~
 1994 ~~programming;~~

1995 ~~(D) Any amounts attributable to refunds, rebates, or discounts;~~

1996 ~~(E) Any revenue from services provided over the network that are associated with or~~
 1997 ~~classified as noncable or nonvideo services under federal law, including, without~~
 1998 ~~limitation, revenues received from telecommunications services, information services~~
 1999 ~~other than cable service or video service, Internet access services, or directory or~~
 2000 ~~Internet advertising revenue, including, without limitation, yellow pages, white pages,~~
 2001 ~~banner advertisements, and electronic publishing advertising. Where the sale of any~~
 2002 ~~such noncable or nonvideo service is bundled with the sale of one or more cable~~
 2003 ~~services or video services and sold for a single nonitemized price, the term 'gross~~
 2004 ~~revenues' shall include only those revenues that are attributable to cable service or video~~
 2005 ~~service based on the provider's books and records; such revenues shall be allocated in~~
 2006 ~~a manner consistent with generally accepted accounting principles;~~

2007 ~~(F) Any revenue from late fees not initially booked as revenues, returned check fees,~~
 2008 ~~or interest;~~

2009 ~~(G) Any revenue from sales or rental of property, except such property as the~~
 2010 ~~subscriber shall be required to buy or rent exclusively from the cable service provider~~
 2011 ~~or video service provider to receive cable service or video service;~~

2012 ~~(H) Any revenue received from providing or maintaining inside wiring;~~

2013 ~~(I) Any revenue from sales for resale with respect to which the purchaser shall be~~
 2014 ~~required to pay a franchise fee, provided the purchaser certifies in writing that it shall~~
 2015 ~~resell the service and pay a franchise fee with respect thereto; or~~

2016 ~~(J) Any amounts attributable to a reimbursement of costs including, but not limited to,~~
 2017 ~~the reimbursements by programmers of marketing costs incurred for the promotion or~~
 2018 ~~introduction of video programming Reserved."~~

SECTION 3-12.

2019

2020 Said Title 36 is further amended by revising subsection (c) and paragraphs (4) and (8) of
2021 subsection (g) of Code Section 36-76-4, relating to PEG support, as follows:

2022 "(c) The application for a state franchise shall consist of an affidavit signed by an officer
2023 or general partner of the applicant that contains each of the following:

2024 (1) An affirmative declaration that the applicant shall comply with all applicable federal
2025 and state laws and regulations, including municipal and county ordinances and
2026 regulations regarding the placement and maintenance of facilities in the public right of
2027 way that are generally applicable to all users of the public right of way and specifically
2028 including Chapter 9 of Title 25, the 'Georgia Utility Facility Protection Act';

2029 (2) A description of the applicant's service area, which description shall be sufficiently
2030 detailed so as to allow a local government to respond to subscriber inquiries, including
2031 the name of each municipal or county governing authority within the service area. For
2032 the purposes of this paragraph, an applicant may, in lieu of or as a supplement to a written
2033 description, provide a map on 8 1/2 by 11 inch paper that is clear and legible and that
2034 fairly depicts the service area by making reference to the municipal or county governing
2035 authority to be served. If the geographical area is less than an entire municipality or
2036 county, the map shall describe the boundaries of the geographic area to be served in clear
2037 and concise terms;

2038 (3) The location of the applicant's principal place of business, the name or names of the
2039 principal executive officer or officers of the applicant, information concerning payment
2040 locations or addresses, and general information concerning equipment returns; and

2041 (4) Certification that the applicant is authorized to conduct business in the State of
2042 Georgia and that the applicant possesses satisfactory financial and technical capability
2043 to provide cable service or video service and a description of such capabilities. Such
2044 certification shall not be required from an incumbent service provider or any cable
2045 service provider or video service provider that has wireline facilities located in the public
2046 right of way as of January 1, 2008; and

2047 ~~(5) Notice to the affected local governing authority of its right to designate a franchise
2048 fee pursuant to Code Section 36-76-6."~~

2049 ~~"(4) An incumbent service provider that elects to terminate a franchise under this
2050 subsection shall continue to provide PEG access support, as such existed on January 1,
2051 2007, under the same terms as the terminated local franchise had it not been terminated
2052 until the local franchise would have expired under its own terms Reserved."~~

2053 "(8) Each holder of a state franchise shall have the obligation to provide access to the
2054 same number of PEG channels pursuant to Code Section 36-76-8 and the additional PEG
2055 support cash payments specified in this paragraph for PEG access facilities in a service

2056 area as the incumbent service provider with the most subscribers in such service area as
 2057 of January 1, 2007, which obligation shall continue until the local franchise would have
 2058 expired under its own terms ~~as specified in paragraph (4) of this subsection~~; provided,
 2059 however, that if a local franchise would have expired before July 1, 2012, the holder of
 2060 a state franchise shall continue to provide access to the same number of PEG channels
 2061 until July 1, 2012, as provided in paragraph (5) of this subsection. ~~To the extent such~~
 2062 ~~incumbent service provider provides PEG access support during said period in the form~~
 2063 ~~of periodic payments to the municipal or county governing authority equal to a~~
 2064 ~~percentage of gross revenue or a prescribed per subscriber amount, the state franchise~~
 2065 ~~holder shall be obligated to make the same periodic payments to the governing authority~~
 2066 ~~at the same time and equal to the same percentage of gross revenue or prescribed per~~
 2067 ~~subscriber amount. To the extent such incumbent service provider provides PEG access~~
 2068 ~~support to the applicable governing authority during said period in the form of a lump~~
 2069 ~~sum payment that remains unsatisfied as of January 1, 2008, the holder of a state~~
 2070 ~~franchise shall be obligated to provide a lump sum payment to said authority based on its~~
 2071 ~~proportion of the total number of cable service and video service subscribers of all service~~
 2072 ~~providers in such service area. No payments shall be due under this paragraph until the~~
 2073 ~~municipality or county notifies the respective providers, in writing, of the percentage of~~
 2074 ~~gross revenues, the per subscriber amount, or the lump sum payment amount and the~~
 2075 ~~expiration date of the local franchise obtaining such obligations. The holder of a state~~
 2076 ~~franchise may designate that portion of the subscriber's bill attributable to any fee~~
 2077 ~~imposed pursuant to this paragraph as a separate item on the bill and recover such amount~~
 2078 ~~from the subscriber."~~

2079 SECTION 3-13.

2080 Said Title 36 is further amended by revising Code Section 36-76-6, relating to franchise fees,
 2081 as follows:

2082 "36-76-6.

2083 ~~(a)(1) The holder of a state franchise, whether a cable service provider or a video service~~
 2084 ~~provider, shall pay to each affected local governing authority which complies with this~~
 2085 ~~Code section a franchise fee which shall not exceed the maximum percentage rate~~
 2086 ~~permitted in 47 U.S.C. Section 542(b) of such holder's gross revenues received from the~~
 2087 ~~provision of cable service or video service to subscribers located within such holder's~~
 2088 ~~service area.~~

2089 ~~(2) Each affected local governing authority or its authorized designee shall provide~~
 2090 ~~written notice to the Secretary of State and each applicant for or holder of a state~~
 2091 ~~franchise with a service area located within that affected local governing authority's~~

2092 jurisdiction of the franchise fee rate that applies to the applicant for or holder of such state
2093 franchise. ~~The applicant for or holder of a state franchise shall start assessing the~~
2094 ~~franchise fee within 15 days of receipt of written notice from the affected local governing~~
2095 ~~authority or its authorized designee and shall not be required to pay such franchise fee~~
2096 ~~until the expiration of 15 days after receipt of such written notice. Any incumbent service~~
2097 ~~provider who obtains a state franchise under paragraph (1) of subsection (g) of Code~~
2098 ~~Section 36-76-4 shall pay its existing franchise fee during the 15 day period after receipt~~
2099 ~~of written notice of the new fee. The franchise fee rate shall be uniformly applicable to~~
2100 ~~all cable service providers and video service providers that obtain a state franchise within~~
2101 ~~the affected local governing authority. For purposes of this Code section, an authorized~~
2102 ~~designee is an agent authorized by charter or other act of the affected local governing~~
2103 ~~authority.~~

2104 (3) ~~Any affected local governing authority may change the franchise fee applicable to~~
2105 ~~holders of a state franchise once every two years. The affected local governing authority~~
2106 ~~or its authorized designee shall provide written notice to the Secretary of State and the~~
2107 ~~applicants for or holders of a state franchise with a service area within that affected local~~
2108 ~~governing authority's jurisdiction of the new franchise fee rate. The holder of a state~~
2109 ~~franchise shall start assessing the new franchise fee within 45 days of receipt of written~~
2110 ~~notice of the change from the affected local governing authority or its authorized~~
2111 ~~designee. The franchise fee rate shall be uniformly applicable to all cable service~~
2112 ~~providers and video service providers that obtain a state franchise within the affected~~
2113 ~~local governing authority's jurisdiction.~~

2114 (b) ~~Such franchise fee shall be paid directly to each affected local governing authority~~
2115 ~~within 30 days after the last day of each calendar quarter. Such payment shall be~~
2116 ~~considered complete if accompanied by a statement showing, for the quarter covered by~~
2117 ~~the payment:~~

2118 (1) ~~The aggregate amount of the state franchise holder's gross revenues, specifically~~
2119 ~~identifying subscriber and advertising and home shopping services revenues under this~~
2120 ~~chapter insofar as the franchise holder's existing billing systems include such capability,~~
2121 ~~attributable to such municipality or unincorporated areas of the county; and~~

2122 (2) ~~The amount of the franchise fee payment due to such municipality or county.~~

2123 ~~In the event that franchise fees are not paid on or before the dates specified above, then the~~
2124 ~~affected local governing authority shall provide written notice to the franchise holder~~
2125 ~~giving the cable service provider or video service provider 15 days from the date of the~~
2126 ~~franchise holder's receipt of such notice to cure any such nonpayment. In the event~~
2127 ~~franchise fees are not remitted to the affected local government authority postmarked on~~
2128 ~~or before the expiration of the 15 day cure period, then the holder of the state franchise~~

2129 shall pay interest thereon at a rate of 1 percent per month to the affected local governing
2130 authority. If the 15 day cure period expires on Saturday, Sunday, or a legal holiday, the
2131 due date shall be the next business day. Moreover, the franchise holder shall not be
2132 assessed interest on late payments if franchise payments were submitted in error to a
2133 neighboring local governing authority.

2134 (c) Each affected local governing authority may, no more than once annually, audit the
2135 business records of the state franchise holder to the extent necessary to ensure payment in
2136 accordance with this Code section. For purposes of this subsection, an audit shall be
2137 defined as a comprehensive review of the records of the holder of a state franchise. Once
2138 any audited period of a state franchise holder has been the subject of a requested audit, such
2139 audited period of such state franchise holder shall not again be the subject of any audit. In
2140 the event of a dispute concerning the amount of the franchise fee due to an affected local
2141 governing authority under this Code section, an action may be brought in a court of
2142 competent jurisdiction by an affected local governing authority seeking to recover an
2143 additional amount alleged to be due or by a state franchise holder seeking a refund of an
2144 alleged overpayment; provided, however, that any such action shall be brought within three
2145 years following the end of the quarter to which the disputed amount relates. Such time
2146 period may be extended by written agreement between the state issued franchise holder and
2147 such affected local governing authority. Each party shall bear the party's own costs
2148 incurred in connection with any such examination or dispute. In the event that an affected
2149 local governing authority files an action to recover alleged underpayments of franchise fees
2150 and a court of competent jurisdiction determines the cable service provider or video service
2151 provider has underpaid franchise fees due for any 12 month period by 10 percent or more,
2152 the cable service provider or video service provider may be required to pay the affected
2153 local governing authority its reasonable costs associated with the audit along with any
2154 franchise fee underpayments; provided, however, late payments shall not apply.

2155 (d) The statements made pursuant to subsection (b) of this Code section and any records
2156 or information furnished or disclosed by a cable service provider or video service provider
2157 to an affected local governing authority pursuant to subsection (c) of this Code section shall
2158 be exempt from public inspection under Code Section 50-18-70.

2159 (e) No acceptance of any payment shall be construed as a release or as an accord and
2160 satisfaction of any claim an affected local governing authority may have for further or
2161 additional sums payable as a franchise fee.

2162 (f) Any amounts overpaid by the holder of a state franchise shall be deducted from future
2163 franchise payments.

2164 (g) The holder of a state franchise may designate that portion of a subscriber's bill
2165 attributable to any franchise fee imposed pursuant to this Code section as a separate item

2166 ~~on the bill and recover such amount from the subscriber; provided, however, that such~~
 2167 ~~separate listing shall be referred to as a 'franchise' or a 'franchise fee.'~~
 2168 ~~(h) No affected local governing authority shall levy any additional tax, license, fee,~~
 2169 ~~surcharge, or other assessment on a cable service provider or video service provider for or~~
 2170 ~~with respect to the use of any public right of way other than the franchise fee authorized~~
 2171 ~~by this Code section. Nor shall an affected local governing authority levy any other tax,~~
 2172 ~~license, fee, or assessment on a cable service provider or video service provider or its~~
 2173 ~~subscribers that is not generally imposed and applicable to a majority of all other~~
 2174 ~~businesses. The franchise fee authorized by this Code section shall be in lieu of any permit~~
 2175 ~~fee, encroachment fee, degradation fee, or other fee that could otherwise be assessed on a~~
 2176 ~~state issued franchise holder for the holder's occupation or work within the public right of~~
 2177 ~~way; provided, however, that nothing in this Code section shall restrict the right of any~~
 2178 ~~municipal or county governing authority to impose ad valorem taxes, sales taxes, or other~~
 2179 ~~taxes lawfully imposed on a majority of all other businesses within such municipality or~~
 2180 ~~county Reserved.~~"

2181 **SECTION 3-14.**

2182 Said Title 36 is further amended in Code Section 36-76-10, relating to limitations on
 2183 requirements for state franchise holders, by revising paragraph (4) as follows:

2184 "(4) The enactment and enforcement of lawful and reasonable laws and rules and
 2185 municipal or county ordinances and regulations concerning excavation, permitting,
 2186 bonding requirements, indemnification requirements, and placement and maintenance of
 2187 facilities in any public right of way that are generally applicable to all users of any public
 2188 right of way, ~~except to the extent specifically precluded by subsection (h) of Code~~
 2189 ~~Section 36-76-6; and"~~

2190 **SECTION 3-15.**

2191 Title 46 of the Official Code of Georgia Annotated, relating to public utilities, is amended
 2192 by revising Code Section 46-5-1, relating to due compensation provisions, as follows:

2193 "46-5-1.

2194 (a)(1) Any telegraph or telephone company chartered by the laws of this or any other
 2195 state shall have the right to construct, maintain, and operate its lines and facilities upon,
 2196 under, along, and over the public roads and highways and rights of way of this state with
 2197 the approval of the county or municipal authorities in charge of such roads, highways,
 2198 and rights of way. The approval of such municipal authorities shall be limited to the
 2199 process set forth in paragraph (3) of subsection (b) of this Code section, and the approval
 2200 of the county shall be limited to the permitting process set forth in subsection (c) of this

2201 Code section. ~~Upon making due compensation, as defined for municipal authorities in~~
 2202 ~~paragraph (9) of subsection (b) of this Code section and as provided for counties in~~
 2203 ~~subsection (c) of this Code section, a~~ A telegraph or telephone company shall have the
 2204 right to construct, maintain, and operate its lines through or over any lands of this state;
 2205 on, along, and upon the right of way and structures of any railroads; and, where
 2206 necessary, under or over any private lands; and, to that end, a telegraph or telephone
 2207 company may have and exercise the right of eminent domain.

2208 (2) Notwithstanding any other law, a municipal authority or county shall not:

2209 (A) Require any telegraph or telephone company to apply for or enter into an
 2210 individual license, franchise, or other agreement with such municipal authority or
 2211 county; or

2212 (B) Impose any occupational license tax or fee as a condition of placing or maintaining
 2213 lines and facilities in its public roads and highways or rights of way, except as
 2214 specifically set forth in this Code section.

2215 (3) A county or municipal authority shall not impose any occupational license, tax, fee,
 2216 regulation, obligation, or requirement upon the provision of the services described in
 2217 paragraphs (1) and (2) of Code Section 46-5-221, ~~including any occupational license, tax,~~
 2218 ~~fee, regulation, obligation, or requirement specifically set forth in any part of this chapter~~
 2219 ~~other than Part 4.~~

2220 (4) Whenever a telegraph or telephone company exercises its powers under paragraph
 2221 (1) of this subsection, the posts, arms, insulators, and other fixtures of its lines shall be
 2222 erected, placed, and maintained so as not to obstruct or interfere with the ordinary use of
 2223 such railroads or public roads and highways, or with the convenience of any landowners,
 2224 more than may be unavoidable. Any lines constructed by a telegraph or telephone
 2225 company on the right of way of any railroad company shall be subject to relocation so as
 2226 to conform to any uses and needs of such railroad company for railroad purposes. Such
 2227 fixtures, posts, and wires shall be erected at such distances from the tracks of said
 2228 railroads as will prevent any and all damage to said railroad companies by the falling of
 2229 said fixtures, posts, or wires upon said railroad tracks; and such telegraph or telephone
 2230 companies shall be liable to said railroad companies for all damages resulting from a
 2231 failure to comply with this Code section.

2232 (5) No county or municipal authority shall impose upon a telegraph or telephone
 2233 company any build-out requirements on network construction or service deployment, and,
 2234 to the extent that a telegraph or telephone company has elected alternative regulation
 2235 pursuant to Code Section 46-5-165, such company may satisfy its obligations pursuant
 2236 to paragraph (2) of Code Section 46-5-169 by providing communications service, at the
 2237 company's option, through any affiliated companies and through the use of any

2238 technology or service arrangement; provided, however, that such company shall remain
2239 subject to its obligations as set forth in paragraphs (4) and (5) of Code Section 46-5-169.
2240 (b)(1) Except as set forth in paragraph (6) of this subsection, any telegraph or telephone
2241 company that places or seeks to place lines and facilities in the public roads and highways
2242 or rights of way of a municipal authority shall provide to such municipal authority the
2243 following information:

- 2244 (A) The name, address, and telephone number of a principal office and local agent of
2245 such telegraph or telephone company;
- 2246 (B) Proof of certification from the Georgia Public Service Commission of such
2247 telegraph or telephone company to provide telecommunications services in this state;
- 2248 (C) Proof of insurance or self-insurance of such telegraph or telephone company
2249 adequate to defend and cover claims of third parties and of municipal authorities;
- 2250 (D) A description of the telegraph or telephone company's service area, which
2251 description shall be sufficiently detailed so as to allow a municipal authority to respond
2252 to subscriber inquiries. For the purposes of this paragraph, a telegraph or telephone
2253 company may, in lieu of or as supplement to a written description, provide a map on 8
2254 1/2 by 11 inch paper that is clear and legible and that fairly depicts the service area
2255 within the boundaries of the municipal authority. If such service area is less than the
2256 boundaries of an entire municipal authority, the map shall describe the boundaries of
2257 the geographic area to be served in clear and concise terms;
- 2258 (E) A description of the services to be provided;
- 2259 (F) An affirmative declaration that the telegraph or telephone company shall comply
2260 with all applicable federal, state, and local laws and regulations, including municipal
2261 ordinances and regulations, regarding the placement and maintenance of facilities in the
2262 public rights of way that are reasonable, nondiscriminatory, and applicable to all users
2263 of the public rights of way, including the requirements of Chapter 9 of Title 25, the
2264 'Georgia Utility Facility Protection Act'; and
- 2265 (G) A statement in bold type at the top of the application as follows: 'Pursuant to
2266 paragraph (2) of subsection (b) of Code Section 46-5-1 of the Official Code of Georgia
2267 Annotated, the municipal authority shall notify the applicant of any deficiencies in this
2268 application within 15 business days of receipt of this application.'

2269 (2) If an application is incomplete, the municipal authority shall notify the telegraph or
2270 telephone company within 15 business days of the receipt of such application; such notice
2271 shall specifically identify all application deficiencies. If no such notification is given
2272 within 15 business days of the receipt of an application, such application shall be deemed
2273 complete.

2274 (3) Within 60 calendar days of the receipt of a completed application, the municipal
 2275 authority may adopt such application by adoption of a resolution or ordinance or by
 2276 notification to the telegraph or telephone company. The failure of a municipal authority
 2277 to adopt an application within 60 calendar days of the receipt of a completed application
 2278 shall constitute final adoption of such application.

2279 (4) If it modifies its service area or provisioned services identified in the original
 2280 application, the telegraph or telephone company shall notify the municipal authority of
 2281 changes to the service area or the services provided. Such notice shall be given at least
 2282 20 days prior to the effective date of such change. Such notification shall contain a
 2283 geographic description of the new service area or areas and new services to be provided
 2284 within the jurisdiction of the affected municipal authority, if any. The municipal
 2285 authority shall provide to all telegraph and telephone companies located in its rights of
 2286 way written notice of annexations and changes in municipal corporate boundaries which,
 2287 for the purposes of this Code section, shall become effective 30 days following receipt.

2288 (5) An application adopted pursuant to this Code section may be terminated by a
 2289 telegraph or telephone company by submitting a notice of termination to the affected
 2290 municipal authority. For purposes of this Code section, such notice shall identify the
 2291 telegraph or telephone company, the affected service area, and the effective date of such
 2292 termination, which shall not be less than 60 calendar days from the date of filing the
 2293 notice of termination.

2294 (6) Any telegraph or telephone company that has previously obtained permits for the
 2295 placement of its facilities, has specified the name of such telegraph or telephone company
 2296 in such permit application, has previously placed its facilities in any public right of way,
 2297 and has paid and continues to pay any applicable municipal authority's ~~occupational~~
 2298 ~~license taxes~~, permit fees, ~~franchise fees~~, except as set forth in paragraph (8) of this
 2299 subsection, or, if applicable, county permit fees shall be deemed to have complied with
 2300 this Code section without any further action on the part of such telegraph or telephone
 2301 company except as set forth in paragraphs (8), ~~(9)~~, ~~(11)~~, and ~~(17)~~ (10) of this subsection.

2302 (7) Any telegraph or telephone company that has placed lines and facilities in the public
 2303 roads and highways or rights of way of a municipal authority without first obtaining
 2304 permits or otherwise notifying the appropriate municipal authority of its presence in the
 2305 public roads and highways or rights of way shall provide the information required by
 2306 paragraph (1) of this subsection, if applicable, to such municipal authority on or before
 2307 October 1, 2008. As of October 1, 2008, if any telegraph or telephone company, other
 2308 than those who meet the requirements of paragraph (6) of this subsection, has failed or
 2309 fails to provide the information required by paragraph (1) of this subsection to the
 2310 municipal authority in which its lines or facilities are located, such municipal authority

2311 shall provide written notice to such telegraph or telephone company giving that company
 2312 15 calendar days from the date of receipt of such notice to comply with subsection (b) of
 2313 this Code section. In the event the 15 calendar day cure period expires without
 2314 compliance, such municipal authority may petition the Georgia Public Service
 2315 Commission which shall, after an opportunity for a hearing, order the appropriate relief.

2316 (8)(A) In the event any telegraph or telephone company has an existing, valid
 2317 municipal franchise agreement as of January 1, 2008, the terms and conditions of such
 2318 existing franchise agreement, with the exception of any imposition of taxes, charges,
 2319 or fees prohibited pursuant to Code Section 48-18-6, shall only remain effective and
 2320 enforceable until the expiration of the existing agreement or December 31, 2012,
 2321 whichever shall first occur.

2322 (B) ~~In the event any telegraph or telephone company is paying an existing occupational~~
 2323 ~~license tax or fee, based on actual recurring local services revenues, as of January 1,~~
 2324 ~~2008, such payment shall be considered the payment of due compensation without~~
 2325 ~~further action on the part of the municipal authority. In the event that the rate of such~~
 2326 ~~existing tax or fee exceeds 3 percent of actual recurring local service revenues, that rate~~
 2327 ~~shall remain effective until December 31, 2012; thereafter, the payment by such~~
 2328 ~~telegraph or telephone company at the rate of 3 percent shall be considered the payment~~
 2329 ~~of due compensation without further action on the part of the municipal authority.~~

2330 (9) ~~As used in this Code section, 'due compensation' for a municipal authority means an~~
 2331 ~~amount equal to no more than 3 percent of actual recurring local service revenues~~
 2332 ~~received by such company from its retail, end user customers located within the~~
 2333 ~~boundaries of such municipal authority. 'Actual recurring local service revenues' means~~
 2334 ~~those revenues customarily included in the Uniform System of Accounts as prescribed~~
 2335 ~~by the Federal Communications Commission for Class 'A' and 'B' companies; provided,~~
 2336 ~~however, that only the local service portion of the following accounts shall be included:~~

2337 (A) ~~Basic local service revenue, as defined in 47 C.F.R. 32.5000;~~

2338 (B) ~~Basic area revenue, as defined in 47 C.F.R. 32.5001;~~

2339 (C) ~~Optional extended area revenue, as defined in 47 C.F.R. 32.5002;~~

2340 (D) ~~Public telephone revenue, as defined in 47 C.F.R. 32.5010;~~

2341 (E) ~~Local private line revenue, as defined in 47 C.F.R. 35.5040; provided, however,~~
 2342 ~~that the portion of such accounts attributable to audio and video program transmission~~
 2343 ~~service where both terminals of the private line are within the corporate limits of the~~
 2344 ~~municipal authority shall not be included;~~

2345 (F) ~~Other local exchange revenue, as defined in 47 C.F.R. 32.5060;~~

2346 (G) ~~Local exchange service, as defined in 47 C.F.R. 32.5069;~~

2347 (H) ~~Network access revenue, as defined in 47 C.F.R. 32.5080;~~

2348 ~~(I) Directory revenue, as defined in 47 C.F.R. 32.5320; provided, however, that the~~
 2349 ~~portion of such accounts attributable to revenue derived from listings in portion of~~
 2350 ~~directories not considered white pages shall not be included;~~

2351 ~~(J) Nonregulated operating revenue, as defined in 47 C.F.R. 32.5280; provided,~~
 2352 ~~however, that the portion of such accounts attributable to revenues derived from private~~
 2353 ~~lines shall not be included; and~~

2354 ~~(K) Uncollectible revenue, as defined in 47 C.F.R. 32.5300.~~

2355 ~~Any charge imposed by a municipal authority shall be assessed in a nondiscriminatory~~
 2356 ~~and competitively neutral manner.~~

2357 ~~(10) Any due compensation paid to municipal authorities pursuant to paragraph (9) of~~
 2358 ~~this subsection shall be in lieu of any other permit fee, encroachment fee, degradation fee,~~
 2359 ~~disruption fee, business license tax, occupational license tax, occupational license fee, or~~
 2360 ~~other fee otherwise permitted pursuant to the provisions of subparagraph (A) of paragraph~~
 2361 ~~(7) of Code Section 36-34-2 or Code Section 32-4-92 et seq. or any other provision of~~
 2362 ~~law regardless of nomenclature.~~

2363 ~~(11) A telegraph or telephone company with facilities in the public rights of way of a~~
 2364 ~~municipal authority shall begin assessing due compensation, as defined in subsection (a)~~
 2365 ~~of this Code section, on subscribers on the date that service commences unless such~~
 2366 ~~company is currently paying a municipal authority's occupational license tax. Such due~~
 2367 ~~compensation shall be paid directly to each affected municipal authority within 30~~
 2368 ~~calendar days after the last day of each calendar quarter. In the event that due~~
 2369 ~~compensation is not paid on or before 30 calendar days after the last day of each calendar~~
 2370 ~~quarter, the affected municipal authority shall provide written notice to such telegraph or~~
 2371 ~~telephone company, giving such company 15 calendar days from the date such company~~
 2372 ~~receives such notice to cure any such nonpayment. In the event the due compensation~~
 2373 ~~remitted to the affected municipal authority is not postmarked on or before the expiration~~
 2374 ~~of the 15 day cure period, such company shall pay interest thereon at a rate of 1 percent~~
 2375 ~~per month to the affected municipal authority. If the 15 day cure period expires on a~~
 2376 ~~Saturday, a Sunday, or a state legal holiday, the due date shall be the next business day.~~
 2377 ~~A telegraph or telephone company shall not be assessed any interest on late payments if~~
 2378 ~~due compensation was submitted in error to a neighboring municipal authority.~~

2379 ~~(12) Each municipal authority may, no more than once annually, audit the business~~
 2380 ~~records of a telegraph or telephone company to the extent necessary to ensure payment~~
 2381 ~~in accordance with this Code section. As used in this Code section, 'audit' means a~~
 2382 ~~comprehensive review of the records of a company which is reasonably related to the~~
 2383 ~~calculation and payment of due compensation. Once any audited period of a company~~
 2384 ~~has been the subject of a requested audit, such audited period of such company shall not~~

2385 again be the subject of any audit. In the event of a dispute concerning the amount of due
 2386 compensation due to an affected municipal authority under this Code section, an action
 2387 may be brought in a court of competent jurisdiction by an affected municipal authority
 2388 seeking to recover an additional amount alleged to be due or by a company seeking a
 2389 refund of an alleged overpayment; provided, however, that any such action shall be
 2390 brought within three years following the end of the quarter to which the disputed amount
 2391 relates, although such time period may be extended by written agreement between the
 2392 company and such affected municipal authority. Each party shall bear the party's own
 2393 costs incurred in connection with any dispute. The auditing municipal authority shall
 2394 bear the cost of the audit; provided, however, that if an affected municipal authority files
 2395 an action to recover alleged underpayments of due compensation and a court of
 2396 competent jurisdiction determines the company has underpaid due compensation due for
 2397 any 12-month period by 10 percent or more, such company shall be required to pay such
 2398 municipal authority's reasonable costs associated with such audit along with any due
 2399 compensation underpayments; provided, further, that late payments shall not apply. All
 2400 undisputed amounts due to a municipal authority resulting from an audit shall be paid to
 2401 the municipal authority within 45 days, or interest shall accrue.

2402 ~~(13)~~(9) The information provided pursuant to paragraph (1) of this subsection and any
 2403 records or information furnished or disclosed by a telegraph or telephone company to an
 2404 affected municipal authority pursuant to paragraph ~~(12)~~ of this subsection shall be exempt
 2405 from public inspection under Code Section 50-18-70. It shall be the duty of such
 2406 telegraph or telephone company to mark all such documents as exempt from Code
 2407 Section 50-18-70, et seq., and the telegraph or telephone company shall defend,
 2408 indemnify, and hold harmless any municipal authority and any municipal officer or
 2409 employee in any request for, or in any action seeking, access to such records.

2410 ~~(14)~~ No acceptance of any payment shall be construed as a release or as an accord and
 2411 satisfaction of any claim an affected municipal authority may have for further or
 2412 additional sums payable as due compensation.

2413 ~~(15)~~ Any amounts overpaid by a company as due compensation shall be deducted from
 2414 future due compensation owed.

2415 ~~(16)~~ A telegraph or telephone company paying due compensation pursuant to this Code
 2416 section may designate that portion of a subscriber's bill attributable to such charge as a
 2417 separate line item of the bill and recover such amount from the subscriber.

2418 ~~(17)~~(10) Nothing in this Code section shall affect the authority of a municipal authority
 2419 to require telegraph or telephone companies accessing the public roads and highways and
 2420 rights of way of a municipal authority to obtain permits and otherwise comply with the

2421 reasonable regulations established pursuant to paragraph (10) of subsection (a) of Code
2422 Section 32-4-92.

2423 ~~(18) If a telegraph or telephone company does not have retail, end user customers located
2424 within the boundaries of a municipal authority, then the payment by such company at the
2425 same rates that such payments were being made as of January 1, 2008, to a municipal
2426 authority for the use of its rights of way shall be considered the payment of due
2427 compensation; provided, however, that at the expiration date of any existing agreement
2428 for use of such municipal rights of way or December 31, 2012, whichever is earlier, the
2429 payment at rates in accordance with the rates set by regulations promulgated by the
2430 Department of Transportation shall be considered the payment of due compensation.
2431 Provided, further, that if a telegraph or telephone company begins providing service after
2432 January 1, 2008, and such telegraph or telephone company does not have retail, end user
2433 customers located within the boundaries of a municipal authority, the payment by such
2434 company at rates in accordance with the rates set by regulations promulgated by the
2435 Department of Transportation to a municipal authority for the use of its rights of way
2436 shall be considered the payment of due compensation.~~

2437 ~~(19) Nothing in this Code section shall be construed to affect any franchise fee payments
2438 which were in dispute on or before January 1, 2008.~~

2439 (c) If a telegraph or telephone company accesses the public roads and highways and rights
2440 of way of a county and such county requires such telegraph or telephone company to pay
2441 due compensation, such due compensation shall be limited to an administrative cost
2442 recoupment fee which shall not exceed such county's direct, actual costs incurred in its
2443 permitting process, including issuing and processing permits, plan reviews, physical
2444 inspection, and direct administrative costs; and such costs shall be demonstrable and shall
2445 be equitable among applicable users of such county's roads and highways or rights of way.
2446 Permit fees shall not include the costs of highway or rights of way acquisition or any
2447 general administrative, management, or maintenance costs of the roads and highways or
2448 rights of way and shall not be imposed for any activity that does not require the physical
2449 disturbance of such public roads and highways or rights of way or does not impair access
2450 to or full use of such public roads and highways or rights of way. Nothing in this Code
2451 section shall affect the authority of a county to require a telegraph or telephone company
2452 to comply with reasonable regulations for construction of telephone lines and facilities in
2453 public highways or rights of way pursuant to the provisions of paragraph (6) of Code
2454 Section 32-4-42."

2455

PART IV

2456

SECTION 4-1.

2457 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 2458 amended in Code Section 48-7-1, relating to definitions regarding income taxes, by revising
 2459 subparagraph (D) of paragraph (11) as follows:

2460 "(D) Every individual who is not a resident of this state for income tax purposes and
 2461 who makes a withdrawal as provided for in paragraph ~~(10)~~ (9) of subsection ~~(b)~~ (c) of
 2462 Code Section 48-7-27; and"

2463

SECTION 4-2.

2464 Said Title 48 is further amended in Code Section 48-7-30, relating to taxation of nonresident
 2465 income, by revising subsection (a) as follows:

2466 "(a) The tax imposed by this chapter shall apply to the entire net income of a taxable
 2467 nonresident derived from employment, trade, business, professional, or other activity for
 2468 financial gain or profit performed or carried on within this state including, but not limited
 2469 to, the rental of real or personal property located within this state or for use within this
 2470 state, the sale, exchange, or other disposition of tangible or intangible property having a
 2471 situs in this state, the receipt of proceeds of any lottery prize awarded by the Georgia
 2472 Lottery Corporation, and withdrawals of contributions to a savings trust account under
 2473 Article 11 of Chapter 3 of Title 20 which are required to be included in taxable net income
 2474 as provided in subparagraph ~~(b)(10)(C)~~ (c)(9)(C) of Code Section 48-7-27."

2475

SECTION 4-3.

2476 Said Title 48 is further amended in Code Section 48-7-30, relating to taxation of nonresident
 2477 income, by revising paragraph (2) of subsection (d) as follows:

2478 "(2) Expenses allowable to a taxable nonresident as provided in paragraph (1) of this
 2479 subsection shall be allowable only to the extent that the expenses are attributable to the
 2480 production of income allocable to and taxable by this state. As to allowable deductions
 2481 essentially personal in nature, such as contributions to charitable organizations, alimony,
 2482 medical expenses, ~~the optional standard deduction, personal exemptions,~~ and credits for
 2483 dependents, the taxable nonresident shall be allowed deductions for such deductions
 2484 essentially personal in nature in the ratio that the gross income allocated to this state bears
 2485 to the total gross income of the taxable nonresident computed as if the taxable
 2486 nonresident were a resident of this state. The commissioner may accept total federal
 2487 gross income as the equivalent of total Georgia gross income for purposes of this
 2488 allocation."

PART V**SECTION 5-1.**

2489

2490

2491 Except as otherwise provided in this part, this Act shall become effective upon this Act's
2492 approval by the Governor or upon its becoming law without such approval.

SECTION 5-2.

2493

2494 (a) Part I of this Act shall become effective January 1, 2012, and shall be applicable to all
2495 taxable years beginning on or after January 1, 2012.

2496 (b) Tax, penalty, and interest liabilities and refund eligibility for prior taxable years shall
2497 not be affected by the passage of Part I of this Act and shall continue to be governed by the
2498 provisions of general law as it existed immediately prior to January 1, 2012.

2499 (c) Part I of this Act shall not abate any prosecution, punishment, penalty, administrative
2500 proceedings or remedies, or civil action related to any violation of law committed prior to
2501 January 1, 2012.

SECTION 5-3.

2502

2503 Part II of this Act shall become effective on January 1, 2012.

SECTION 5-4.

2504

2505 Part III of this Act shall become effective on January 1, 2012. With respect to
2506 communications services which are regularly billed on a monthly basis, the excise taxation
2507 provisions of Part III of this Act shall become effective on the first regular billing period
2508 coinciding with or following January 1, 2012.

SECTION 5-5.

2509

2510 Part IV of this Act shall become effective on January 1, 2012, and shall be applicable to all
2511 taxable years beginning on or after that date.

PART VI**SECTION 6-1.**

2512

2513

2514 All laws and parts of laws in conflict with this Act are repealed.