

House Bill 386 (AS PASSED HOUSE AND SENATE)

By: Representatives Channell of the 116th, O'Neal of the 146th, Jones of the 46th, and Peake of the 137th

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 2, 40, 44, and 48 of the Official Code of Georgia Annotated, relating to
2 agriculture, motor vehicles, property, and revenue and taxation, respectively, so as to provide
3 for the comprehensive revision of taxation of motor vehicles; to change certain provisions
4 regarding tag agents; to provide for state and local title ad valorem tax fees as alternative ad
5 valorem taxes; to provide for definitions; to provide for continuation of tag, revalidation, and
6 registration fees; to provide for distribution of such state and local title ad valorem tax fees;
7 to exclude certain vehicles from certain fees; to change certain provisions regarding
8 classification of motor vehicles as a separate class of property for ad valorem tax purposes;
9 to provide for an exemption from sales and use taxes only with respect to certain sales or
10 purchases of certain motor vehicles; to provide for certain reports; to provide for certain
11 penalties and sanctions; to provide for a study committee to review and report on such state
12 and local title ad valorem tax fees; to change the personal exemption for married taxpayers
13 filing an income tax return; to revise certain provisions regarding the exclusion of retirement
14 income from taxable net income; to revise provisions relating to tax credits available to
15 qualified donors of property for conservation purposes; to provide a maximum tax credit
16 amount; to provide for additional requirements for donated conservation easements; to
17 provide for certification procedures; to modify transferability of tax credits; to change certain
18 provisions relating to the exemptions from sales and use tax for film producers and film
19 production companies; to provide for revision of taxation of machinery and energy used in
20 manufacturing and agriculture; to provide for the repeal of certain exemptions from state
21 sales and use tax; to provide for a new exemption regarding the sale and use of machinery
22 or equipment which is necessary and integral to the manufacture of tangible personal
23 property and the sale, use, storage, or consumption of energy, industrial materials, or
24 packaging supplies; to provide for definitions; to provide for procedures, conditions, and
25 limitations; to provide for an exemption for sales to, or use by, a qualified agriculture
26 producer of agricultural production inputs, energy used in agriculture, and agricultural
27 machinery and equipment; to provide for definitions; to provide for procedures, conditions,
28 and limitations; to provide for powers, duties, and authority of the Commissioner of

29 Agriculture; to provide for a local excise tax on energy used in manufacturing; to provide for
 30 a new exemption for construction materials used in competitive projects of regional
 31 significance for a limited period of time; to modify the exemption for jet fuel; to revise the
 32 definition of dealer in order to expand the limits of nexus with this state for purposes of
 33 collecting state sales and use tax; to provide for sales tax exemptions for certain items on
 34 specified dates; to provide for related matters; to provide for effective dates; to provide for
 35 applicability; to provide that existing prosecutions shall not abate; to provide for severability;
 36 to repeal conflicting laws; and for other purposes.

37 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

38 **PART I**

39 **SECTION 1-1.**

40 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended
 41 by revising Code Section 40-2-23, relating to county tax collectors and county tax
 42 commissioners' designation as tax agents, as follows:

43 "40-2-23.

44 (a) The tax collectors of the various counties of this state and the tax commissioners of
 45 those counties in which the duties of the tax collector are performed by a tax commissioner
 46 shall be designated as tag agents of the commissioner for the purpose of accepting
 47 applications for the registration of vehicles. The commissioner is authorized to promulgate
 48 rules and regulations for the purpose of delegating to such tag agents the custodial
 49 responsibility for properly receiving, processing, issuing, and storing motor vehicle titles
 50 or registrations, or both.

51 ~~(b) The state revenue commissioner is authorized to further designate each such tag agent~~
 52 ~~as a sales tax agent for the purpose of collecting sales and use tax with respect to the casual~~
 53 ~~sale or casual use of a motor vehicle. For purposes of this Code section, 'casual sale' or~~
 54 ~~'casual use' means the sale of a motor vehicle by a person who is not regularly or~~
 55 ~~systematically engaged in making retail sales of motor vehicles and the first use,~~
 56 ~~consumption, distribution, or storage for use or consumption of such motor vehicle~~
 57 ~~purchased through a casual sale. As personal compensation for services rendered to the~~
 58 ~~Department of Revenue with respect to the collection of such sales and use tax, each such~~
 59 ~~designated tag agent shall be authorized to retain from such collection a fee of \$200.00 per~~
 60 ~~month. In any month in which an insufficient amount of such tax is collected to pay such~~
 61 ~~fee, the amount of any such unpaid fee may be deferred until such month as sufficient~~
 62 ~~collections are made. Such compensation shall be in addition to any other compensation~~
 63 ~~to which such tax collector or tax commissioner is entitled.~~

64 ~~(e)~~(b) The duties and responsibilities of agents of the commissioner designated under this
 65 Code section shall be a part of the official duties and responsibilities of the county tax
 66 collectors and tax commissioners."

67 **SECTION 1-2.**

68 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 69 amended by revising Code Section 48-5-441, relating to classification of motor vehicles and
 70 mobile homes as separate classes of tangible property for ad valorem tax purposes, as
 71 follows:

72 "48-5-441.

73 (a)(1) For the purposes of ad valorem taxation, motor vehicles ~~are~~ shall be classified as
 74 a separate and distinct class of tangible property. Such class of tangible property shall
 75 be divided into two distinct and separate subclasses of tangible property with one
 76 subclass including heavy-duty equipment motor vehicles as defined in Code
 77 Section 48-5-505 and the other subclass including all other motor vehicles. The
 78 procedures prescribed by this article for returning motor vehicles, excluding heavy-duty
 79 equipment motor vehicles as defined in Code Section 48-5-505, for taxation, determining
 80 the applicable rates for taxation, and collecting the ad valorem tax imposed on motor
 81 vehicles shall be exclusive.

82 (2) This subsection shall not apply to motor vehicles subject to Code Section 48-5-441.1.

83 (b) For the purposes of ad valorem taxation, mobile homes ~~are~~ shall be classified as a
 84 separate and distinct class of tangible property. The procedures prescribed by this article
 85 for returning mobile homes for taxation, determining the applicable rates for taxation, and
 86 collecting the ad valorem tax imposed on mobile homes shall be exclusive.

87 (c)(1) For the purposes of ad valorem taxation, commercial vehicles ~~are~~ shall be
 88 classified as a separate and distinct class of tangible property. The procedures prescribed
 89 by this article for returning commercial vehicles for taxation and for determining the
 90 valuation of commercial vehicles shall be exclusive and as provided for in Code
 91 Section 48-5-442.1. All other procedures prescribed by this article for the taxation of
 92 motor vehicles shall be applicable to the taxation of commercial vehicles.

93 (2) This subsection shall not apply to motor vehicles subject to Code
 94 Section 48-5-441.1."

95 **SECTION 1-3.**

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

97 "48-5-441.1.

98 In accordance with Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution,
 99 motor vehicles subject to the provisions of Code Section 48-5B-1 shall be classified as a
 100 separate and distinct class of tangible property for the purposes of ad valorem taxation."

101 **SECTION 1-4.**

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

103 "CHAPTER 5B

104 48-5B-1.

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

106 (1) 'Fair market value of the motor vehicle' means:

107 (A) The average of the current fair market value and the current wholesale value of a
 108 motor vehicle for a vehicle listed in the current motor vehicle ad valorem assessment
 109 manual utilized by the state revenue commissioner in determining taxable value of a
 110 motor vehicle under Code Section 48-5-442;

111 (B) For a used motor vehicle which is not so listed in such current motor vehicle ad
 112 valorem assessment manual, the value from the bill of sale or the value from a reputable
 113 used car market guide designated by the commissioner, whichever is greater; or

114 (C) The fair market value determined by the state revenue commissioner from the bill
 115 of sale of a new motor vehicle for which there is no value under subparagraph (A) of
 116 this paragraph, less any rebate and before any reduction for the trade-in value of another
 117 motor vehicle.

118 (2) 'Immediate family member' means spouse, parent, child, sibling, grandparent, or
 119 grandchild.

120 (3) 'Loaner vehicle' means a motor vehicle owned by a dealer which is withdrawn
 121 temporarily from dealer inventory for exclusive use as a courtesy vehicle loaned at no
 122 charge for a period not to exceed 30 days within a calendar year to any one customer
 123 whose motor vehicle is being serviced by such dealer.

124 (4) 'Rental charge' means the total value received by a rental motor vehicle concern for
 125 the rental or lease for 31 or fewer consecutive days of a rental motor vehicle, including
 126 the total cash and nonmonetary consideration for the rental or lease, including, but not
 127 limited to, charges based on time or mileage and charges for insurance coverage or
 128 collision damage waiver but excluding all charges for motor fuel taxes or sales and use
 129 taxes.

130 (5) 'Rental motor vehicle' means a motor vehicle designed to carry ten or fewer
 131 passengers and used primarily for the transportation of persons that is rented or leased
 132 without a driver.

133 (6) 'Rental motor vehicle concern' means a person or legal entity which owns or leases
 134 five or more rental motor vehicles and which regularly rents or leases such vehicles to the
 135 public for value.

136 (7) 'Trade-in value' means the value of the motor vehicle as stated in the bill of sale for
 137 a vehicle which has been traded in to the dealer in a transaction involving the purchase
 138 of another vehicle from the dealer.

139 (b)(1)(A) Except as otherwise provided in this subsection, any motor vehicle for which
 140 a title is issued in this state on or after March 1, 2013, shall be exempt from sales and
 141 use taxes to the extent provided under paragraph (92) of Code Section 48-8-3 and shall
 142 not be subject to the ad valorem tax as otherwise required under Chapter 5 of Title 48.
 143 Any such motor vehicle shall be titled as otherwise required under Title 40 but shall be
 144 subject to a state title fee and a local title fee which shall be alternative ad valorem taxes
 145 as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

146 (B)(i) As used in this subparagraph, the term:

147 (II) 'Local base amount' means \$1 billion.

148 (II) 'Local current collection amount' means the total amount of motor vehicle local
 149 ad valorem tax proceeds collected under this Code section and Chapter 5 of this title
 150 during the calendar year which immediately precedes the tax year in which the title
 151 ad valorem tax adjustments are required to be made under this subparagraph.

152 (III) 'Local target collection amount' means an amount equal to the local base
 153 amount added to the product of 2 percent of the local base amount multiplied by the
 154 number of years since 2012 with a maximum amount of \$1.2 billion.

155 (IV) 'State base amount' means \$535 million.

156 (V) 'State current collection amount' means the total amount of motor vehicle state
 157 ad valorem tax proceeds collected under this Code section and Chapter 5 of this title
 158 during the calendar year which immediately precedes the tax year in which the state
 159 and local title ad valorem tax rate is to be reviewed for adjustment under
 160 division (xiv) of this subparagraph. Notwithstanding the other provisions of this
 161 subdivision to the contrary, the term 'state current collection amount' for the 2014
 162 calendar year for the purposes of the 2015 review under division (xiv) of this
 163 subparagraph shall be adjusted so that such amount is equal to the amount of motor
 164 vehicle state ad valorem tax proceeds that would have been collected under this
 165 Code section in 2014 if the combined state and local title ad valorem tax rate was
 166 7 percent of the fair market value of the motor vehicle less any trade-in value plus

167 the total amount of motor vehicle state ad valorem tax proceeds collected under
168 Chapter 5 of this title during 2014.

169 (VI) 'State target collection amount' means an amount equal to the state base
170 amount added to the product of 2 percent of the state base amount multiplied by the
171 number of years since 2012.

172 (ii) The combined state and local title ad valorem tax shall be at a rate equal to:

173 (I) For the period commencing March 1, 2013, through December 31, 2013, 6.5
174 percent of the fair market value of the motor vehicle less any trade-in value;

175 (II) For the 2014 tax year, 6.75 percent of the fair market value of the motor vehicle
176 less any trade-in value; and

177 (III) Except as provided in division (xiv) of this subparagraph, for the 2015 and
178 subsequent tax years, 7 percent of the fair market value of the motor vehicle less
179 any trade-in value.

180 (iii) For the period commencing March 1, 2013, through December 31, 2013, the
181 state title ad valorem tax shall be at a rate equal to 57 percent of the tax rate specified
182 in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate
183 equal to 43 percent of the tax rate specified in division (ii) of this subparagraph.

184 (iv) For the 2014 tax year, the state title ad valorem tax shall be at a rate equal to 55
185 percent of the tax rate specified in division (ii) of this subparagraph, and the local title
186 ad valorem tax shall be at a rate equal to 45 percent of the tax rate specified in
187 division (ii) of this subparagraph.

188 (v) For the 2015 tax year, the state title ad valorem tax shall be at a rate equal to 55
189 percent of the tax rate specified in division (ii) of this subparagraph, and the local title
190 ad valorem tax shall be at a rate equal to 45 percent of the tax rate specified in
191 division (ii) of this subparagraph.

192 (vi) For the 2016 tax year, except as otherwise provided in division (xiii) of this
193 subparagraph, the state title ad valorem tax shall be at a rate equal to 53.5 percent of
194 the tax rate specified in division (ii) of this subparagraph, and the local title ad
195 valorem tax shall be at a rate equal to 46.5 percent of the tax rate specified in
196 division (ii) of this subparagraph.

197 (vii) For the 2017 tax year, except as otherwise provided in divisions (xiii) and (xiv)
198 of this subparagraph, the state title ad valorem tax shall be at a rate equal to 44 percent
199 of the tax rate specified in division (ii) of this subparagraph, and the local title ad
200 valorem tax shall be at a rate equal to 56 percent of the tax rate specified in division
201 (ii) of this subparagraph.

202 (viii) For the 2018 tax year, except as otherwise provided in division (xiii) of this
203 subparagraph, the state title ad valorem tax shall be at a rate equal to 40 percent of the

204 tax rate specified in division (ii) of this subparagraph, and the local title ad valorem
205 tax shall be at a rate equal to 60 percent of the tax rate specified in division (ii) of this
206 subparagraph.

207 (ix) For the 2019 tax year, except as otherwise provided in divisions (xiii) and (xiv)
208 of this subparagraph, the state title ad valorem tax shall be at a rate equal to 36 percent
209 of the tax rate specified in division (ii) of this subparagraph, and the local title ad
210 valorem tax shall be at a rate equal to 64 percent of the tax rate specified in division
211 (ii) of this subparagraph.

212 (x) For the 2020 tax year, except as otherwise provided in division (xiii) of this
213 subparagraph, the state title ad valorem tax shall be at a rate equal to 34 percent of the
214 tax rate specified in division (ii) of this subparagraph, and the local title ad valorem
215 tax shall be at a rate equal to 66 percent of the tax rate specified in division (ii) of this
216 subparagraph.

217 (xi) For the 2021 tax year, except as otherwise provided in division (xiii) of this
218 subparagraph, the state title ad valorem tax shall be at a rate equal to 30 percent of the
219 tax rate specified in division (ii) of this subparagraph, and the local title ad valorem
220 tax shall be at a rate equal to 70 percent of the tax rate specified in division (ii) of this
221 subparagraph.

222 (xii) For the 2022 and all subsequent tax years, except as otherwise provided in
223 division (xiii) of this subparagraph for tax years 2022, 2023, and 2024 and except as
224 otherwise provided in division (xiv) of this subparagraph for tax year 2023, the state
225 title ad valorem tax shall be at a rate equal to 28 percent of the tax rate specified in
226 division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate
227 equal to 72 percent of the tax rate specified in division (ii) of this subparagraph.

228 (xiii) Beginning in 2016, by not later than January 15 of each tax year through the
229 2022 tax year, the state revenue commissioner shall determine the local target
230 collection amount and the local current collection amount for the preceding calendar
231 year. If such local current collection amount is equal to or within 1 percent of the
232 local target collection amount, then the state title ad valorem tax rate and the local title
233 ad valorem tax rate for such tax year shall remain at the rate specified in this
234 subparagraph for that year. If the local current collection amount is more than 1
235 percent greater than the local target collection amount, then the local title ad valorem
236 tax rate for such tax year shall be reduced automatically by operation of this division
237 by such percentage amount as may be necessary so that, if such rate had been in effect
238 for the calendar year under review, the local current collection amount would have
239 produced an amount equal to the local target collection amount, and the state title ad
240 valorem tax rate for such tax year shall be increased by an equal amount to maintain

241 the combined state and local title ad valorem tax rate at the rate specified in
242 division (ii) of this subparagraph. If the local current collection amount is more than
243 1 percent less than the local target collection amount, then the local title ad valorem
244 tax rate for such tax year shall be increased automatically by operation of this division
245 by such percentage amount as may be necessary so that, if such rate had been in effect
246 for the calendar year under review, the local current collection amount would have
247 produced an amount equal to the local target collection amount, and the state title ad
248 valorem tax rate for such tax year shall be reduced by an equal amount to maintain the
249 combined state and local title ad valorem tax rate at the rate specified in division (ii)
250 of this subparagraph. In the event of an adjustment of such ad valorem tax rates, by
251 not later than January 31 of such tax year, the state revenue commissioner shall notify
252 the tax commissioner of each county in this state of the adjusted rate amounts. The
253 effective date of such adjusted rate amounts shall be January 1 of such tax year.
254 (xiv) In tax years 2015, 2018, and 2022, by not later than July 1 of each such tax
255 year, the state revenue commissioner shall determine the state target collection
256 amount and the state current collection amount for the preceding calendar year. If
257 such state current collection amount is greater than, equal to, or within 1 percent of
258 the state target collection amount after making the adjustment, if any, required in
259 division (xiii) of this subparagraph, then the combined state and local title ad valorem
260 tax rate provided in division (ii) of this subparagraph shall remain at the rate specified
261 in such division. If the state current collection amount is more than 1 percent less
262 than the state target collection amount after making the adjustment, if any, required
263 by division (xiii) of this subparagraph, then the combined state and local title ad
264 valorem tax rate provided in division (ii) of this subparagraph shall be increased
265 automatically by operation of this division by such percentage amount as may be
266 necessary so that, if such rate had been in effect for the calendar year under review,
267 the state current collection amount would have produced an amount equal to the state
268 target collection amount, and the state title ad valorem tax rate and the local title ad
269 valorem tax rate for the tax year in which such increase in the combined state and
270 local title ad valorem tax rate shall become effective shall be adjusted from the rates
271 specified in this subparagraph or division (xiii) of this subparagraph for such tax year
272 such that the proceeds from such increase in the combined state and local title ad
273 valorem tax rate shall be allocated in full to the state. In the event of an adjustment
274 of the combined state and local title ad valorem tax rate, by not later than August 31
275 of such tax year, the state revenue commissioner shall notify the tax commissioner of
276 each county in this state of the adjusted combined state and local title ad valorem tax
277 rate for the next calendar year. The effective date of such adjusted combined state

278 and local title ad valorem tax rate shall be January 1 of the next calendar year.
279 Notwithstanding the provisions of this division, the combined state and local title ad
280 valorem tax rate shall not exceed 9 percent.

281 (xv) The state revenue commissioner shall promulgate such rules and regulations as
282 may be necessary and appropriate to implement and administer this Code section,
283 including, but not limited to, rules and regulations regarding appropriate public
284 notification of any changes in rate amounts and the effective date of such changes and
285 rules and regulations regarding appropriate enforcement and compliance procedures
286 and methods for the implementation and operation of this Code section.

287 (C) The application for title and the state and local title ad valorem tax fees provided
288 for in subparagraph (A) of this paragraph shall be paid to the tag agent in the county in
289 which the purchaser registers such motor vehicle and shall be paid at the time the
290 purchaser applies for a title and registers such motor vehicle. A dealer of new or used
291 motor vehicles may accept such application for title and state and local title ad valorem
292 tax fees on behalf of the purchaser of a new or used motor vehicle for the purpose of
293 delivering such title application and state and local title ad valorem tax fees to the
294 county tag agent to obtain a tag and title for the purchaser of such motor vehicle.

295 (D) There shall be a penalty imposed on any person who, in the determination of the
296 commissioner, falsifies any information in any bill of sale used for purposes of
297 determining the fair market value of the motor vehicle. Such penalty shall not exceed
298 \$2,500.00 as a state penalty and shall not exceed \$2,500.00 as a local penalty as
299 determined by the commissioner. Such determination shall be made within 60 days of
300 the commissioner receiving information of a possible violation of this paragraph.

301 (E) A dealer of new or used motor vehicles that accepts an application for title and
302 state and local title ad valorem tax fees from a purchaser of a new or used motor vehicle
303 and does not transmit such application for title and state and local title ad valorem tax
304 fees to the county tag agent within 10 days following the date of purchase shall be
305 liable to the county tag agent for an amount equal to 5 percent of the amount of such
306 state and local title ad valorem tax fees. An additional 5 percent penalty shall be
307 imposed for each subsequent month the payment is not transmitted.

308 (F) A dealer of new or used motor vehicles that accepts an application for title and state
309 and local title ad valorem tax fees from a purchaser of a new or used motor vehicle and
310 converts such fees to his or her own use shall be guilty of theft by conversion and, upon
311 conviction, shall be punished as provided in Code Section 16-8-12.

312 (2) A person or entity acquiring a salvage title pursuant to subsection (b) of Code
313 Section 40-3-36 shall not be subject to the fee specified in paragraph (1) of this
314 subsection but shall be subject to a state title ad valorem tax fee in an amount equal to 1

315 percent of the fair market value of the motor vehicle. Such state title ad valorem tax fee
 316 shall be an alternative ad valorem tax as authorized by Article VII, Section I,
 317 Paragraph III(b)(3) of the Georgia Constitution.

318 (c)(1) The amount of proceeds collected by tag agents each month as state and local title
 319 ad valorem tax fees, state salvage title ad valorem tax fees, administrative fees, penalties,
 320 and interest pursuant to subsection (b) of this Code section shall be allocated and
 321 disbursed as provided in this subsection.

322 (2) For the 2013 tax year and in each subsequent tax year, the amount of such funds shall
 323 be disbursed within 30 days following the end of each calendar month as follows:

324 (A) State title ad valorem tax fees, state salvage title ad valorem tax fees,
 325 administrative fees, penalties, and interest shall be remitted to the state revenue
 326 commissioner who shall deposit such proceeds in the general fund of the state less an
 327 amount to be retained by the tag agent not to exceed 1 percent of the total amount
 328 otherwise required to be remitted under this subparagraph to defray the cost of
 329 administration. Such retained amount shall be remitted to the collecting county's
 330 general fund. Failure by the tag agent to disburse within such 30 day period shall result
 331 in a forfeiture of such administrative fee plus interest on such amount at the rate
 332 specified in Code Section 48-2-40; and

333 (B) Local title ad valorem tax fees, administrative fees, penalties, and interest shall be
 334 designated as local government ad valorem tax funds. The tag agent shall then
 335 distribute the proceeds as specified in paragraph (3) of this subsection.

336 (3) The local title ad valorem tax fee proceeds required under this subsection shall be
 337 distributed as follows:

338 (A) The tag agent of the county shall within 30 days following the end of each calendar
 339 month allocate and distribute to the county governing authority and to municipal
 340 governing authorities, the board of education of the county school district, and the
 341 board of education of any independent school district located in such county an amount
 342 of those proceeds necessary to offset any reduction in ad valorem tax on motor vehicles
 343 collected under Chapter 5 of Title 48 in the taxing jurisdiction of each governing
 344 authority and school district from the amount of ad valorem taxes on motor vehicles
 345 collected under Chapter 5 of Title 48 in each such governing authority and school
 346 district during the same calendar month of 2012. This reduction shall be calculated by
 347 subtracting the amount of ad valorem tax on motor vehicles collected under Chapter 5
 348 of Title 48 in each such taxing jurisdiction from the amount of ad valorem tax on motor
 349 vehicles collected under Chapter 5 of Title 48 in that taxing jurisdiction in the same
 350 calendar month of 2012. In the event that the local title ad valorem tax fee proceeds are
 351 insufficient to fully offset such reduction in ad valorem taxes on motor vehicles, the tag

352 agent shall allocate a proportionate amount of the proceeds to each governing authority
 353 and to the board of education of each such school district, and any remaining shortfall
 354 shall be paid from the following month's local title ad valorem tax fee proceeds. In the
 355 event that a shortfall remains, the tag agent shall continue to first allocate local title ad
 356 valorem tax fee proceeds to offset such shortfalls until the shortfall has been fully
 357 repaid; and

358 (B) Of the proceeds remaining following the allocation and distribution under
 359 subparagraph (A) of this paragraph, the tag agent shall allocate and distribute to the
 360 county governing authority and to municipal governing authorities, the board of
 361 education of the county school district, and the board of education of any independent
 362 school district located in such county the remaining amount of those proceeds in the
 363 manner provided in this subparagraph. Such proceeds shall be deposited in the general
 364 fund of such governing authority or board of education and shall not be subject to any
 365 use or expenditure requirements provided for under any of the following described local
 366 sales and use taxes but shall be authorized to be expended in the same manner as
 367 authorized for the ad valorem tax revenues on motor vehicles under Chapter 5 of
 368 Title 48 which would otherwise have been collected for such governing authority or
 369 board of education. Of such remaining proceeds:

370 (i) An amount equal to one-third of such proceeds shall be distributed to the board
 371 of education of the county school district and the board of education of each
 372 independent school district located in such county in the same manner as required for
 373 any local sales and use tax for educational purposes levied pursuant to Part 2 of
 374 Article 3 of Chapter 8 of Title 48 currently in effect. If such tax is not currently in
 375 effect, such proceeds shall be distributed to such board or boards of education in the
 376 same manner as if such tax were in effect;

377 (ii)(I) Except as otherwise provided in this division, an amount equal to one-third
 378 of such proceeds shall be distributed to the governing authority of the county and
 379 the governing authority of each qualified municipality located in such county in the
 380 same manner as specified under the distribution certificate for the joint county and
 381 municipal sales and use tax under Article 2 of Chapter 8 of Title 48 currently in
 382 effect.

383 (II) If such tax were never in effect, such proceeds shall be distributed to the
 384 governing authority of the county and the governing authority of each qualified
 385 municipality located in such county on a pro rata basis according to the ratio of the
 386 population that each such municipality bears to the population of the entire county.

387 (III) If such tax is currently in effect as well as a local option sales and use tax for
 388 educational purposes levied pursuant to a local constitutional amendment, an

389 amount equal to one-third of such proceeds shall be distributed in the same manner
390 as required under subdivision (I) of this division and an amount equal to one-third
391 of such proceeds shall be distributed to the board of education of the county school
392 district.

393 (IV) If such tax is not currently in effect and a local option sales and use tax for
394 educational purposes levied pursuant to a local constitutional amendment is
395 currently in effect, such proceeds shall be distributed to the board of education of
396 the county school district and the board of education of any independent school
397 district in the same manner as required under that local constitutional amendment.

398 (V) If such tax is not currently in effect and a homestead option sales and use tax
399 under Article 2A of Chapter 8 of Title 48 is in effect, such proceeds shall be
400 distributed to the governing authority of the county, each qualified municipality, and
401 each existing municipality in the same proportion as otherwise required under Code
402 Section 48-8-104; and

403 (iii)(I) An amount equal to one-third of such proceeds shall be distributed to the
404 governing authority of the county and the governing authority of each qualified
405 municipality located in such county in the same manner as specified under an
406 intergovernmental agreement or as otherwise required under the county special
407 purpose local option sales and use tax under Part 1 of Article 3 of Chapter 8 of
408 Title 48 currently in effect; provided, however, that this subdivision shall not apply
409 if subdivision (III) of division (ii) of this subparagraph is applicable.

410 (II) If such tax were in effect but expired and is not currently in effect, such
411 proceeds shall be distributed to the governing authority of the county and the
412 governing authority of each qualified municipality located in such county in the
413 same manner as if such tax were still in effect according to the intergovernmental
414 agreement or as otherwise required under the county special purpose local sales and
415 use tax under Part 1 of Article 3 of Chapter 8 of Title 48 for the 12 month period
416 commencing at the expiration of such tax. If such tax is not renewed prior to the
417 expiration of such 12 month period, such amount shall be distributed in accordance
418 with subdivision (I) of division (ii) of this subparagraph; provided, however, that if
419 a tax under Article 2 of Chapter 8 of Title 48 is not in effect, such amount shall be
420 distributed in accordance with subdivision (II) of division (ii) of this subparagraph.

421 (III) If such tax is not currently in effect in a county in which a tax is levied for
422 purposes of a metropolitan area system of public transportation, as authorized by the
423 amendment to the Constitution set out at Ga. L. 1964, p. 1008; the continuation of
424 such amendment under Article XI, Section I, Paragraph IV(d) of the Constitution;
425 and the laws enacted pursuant to such constitutional amendment, such proceeds

426 shall be distributed to the governing body of the authority created by local Act to
 427 operate such metropolitan area system of public transportation.

428 (IV) If such tax were never in effect, such proceeds shall be distributed in the same
 429 manner as specified under the distribution certificate for the joint county and
 430 municipal sales and use tax under Article 2 of Chapter 8 of Title 48 currently in
 431 effect; provided, however, that if such tax under such article is not in effect, such
 432 proceeds shall be distributed to the governing authority of the county and the
 433 governing authority of each qualified municipality located in such county on a pro
 434 rata basis according to the ratio of the population that each such municipality bears
 435 to the population of the entire county.

436 (d)(1)(A) Upon the death of an owner of a motor vehicle which has not become subject
 437 to paragraph (1) of subsection (b) of this Code section, the immediate family member
 438 or immediate family members of such owner who receive such motor vehicle pursuant
 439 to a will or under the rules of inheritance shall, subsequent to the transfer of title of such
 440 motor vehicle, continue to be subject to ad valorem tax under Chapter 5 of Title 48 and
 441 shall not be subject to the state and local title ad valorem tax fees provided for in
 442 paragraph (1) of subsection (b) of this Code section unless the immediate family
 443 member or immediate family members make an affirmative written election to become
 444 subject to paragraph (1) of subsection (b) of this Code section. In the event of such
 445 election, such transfer shall be subject to the state and local title ad valorem tax fees
 446 provided for in paragraph (1) of subsection (b) of this Code section.

447 (B) Upon the death of an owner of a motor vehicle which has become subject to
 448 paragraph (1) of subsection (b) of this Code section, the immediate family member or
 449 immediate family members of such owner who receive such motor vehicle pursuant to
 450 a will or under the rules of inheritance shall be subject to a state title ad valorem tax fee
 451 in an amount equal to one-quarter of 1 percent of the fair market value of the motor
 452 vehicle and a local title ad valorem tax fee in an amount equal to one-quarter of 1
 453 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees
 454 shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph
 455 III(b)(3) of the Georgia Constitution.

456 (2)(A) Upon the transfer from an immediate family member of a motor vehicle which
 457 has not become subject to paragraph (1) of subsection (b) of this Code section, the
 458 immediate family member or immediate family members who receive such motor
 459 vehicle shall, subsequent to the transfer of title of such motor vehicle, continue to be
 460 subject to ad valorem tax under Chapter 5 of Title 48 and shall not be subject to the
 461 state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b)
 462 of this Code section unless the immediate family member or immediate family

463 members make an affirmative written election to become subject to paragraph (1) of
 464 subsection (b) of this Code section. In the event of such election, such transfer shall be
 465 subject to the state and local title ad valorem tax fees provided for in paragraph (1) of
 466 subsection (b) of this Code section.

467 (B) Upon the transfer from an immediate family member of a motor vehicle which has
 468 become subject to paragraph (1) of subsection (b) of this Code section, the immediate
 469 family member who receives such motor vehicle shall transfer title of such motor
 470 vehicle to such recipient family member and shall be subject to a state title ad valorem
 471 tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the
 472 motor vehicle and a local title ad valorem tax fee in an amount equal to one-quarter of
 473 1 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees
 474 shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph
 475 III(b)(3) of the Georgia Constitution.

476 (C) Any title transfer under this paragraph shall be accompanied by an affidavit of the
 477 transferor and transferee that such persons are immediate family members to one
 478 another. There shall be a penalty imposed on any person who, in the determination of
 479 the state revenue commissioner, falsifies any material information in such affidavit.
 480 Such penalty shall not exceed \$2,500.00 as a state penalty and shall not exceed
 481 \$2,500.00 as a local penalty as determined by the state revenue commissioner. Such
 482 determination shall be made within 60 days of the state revenue commissioner
 483 receiving information of a possible violation of this paragraph.

484 (3) Any individual who:

485 (A) Is required by law to register a motor vehicle or motor vehicles in this state which
 486 were registered in the state in which such person formerly resided; and

487 (B) Is required to file an application for a certificate of title under Code
 488 Section 40-3-21 or 40-3-32

489 shall only be required to pay state and local title ad valorem tax fees in the amount of 50
 490 percent of the amount which would otherwise be due and payable under this subsection
 491 at the time of filing the application for a certificate of title, and the remaining 50 percent
 492 shall be paid within 12 months.

493 (4) The state and local title ad valorem tax fees provided for under this Code section
 494 shall not apply to corrected titles, replacement titles under Code Section 40-3-31, or titles
 495 reissued to the same owner pursuant to Code Sections 40-3-50 through 40-3-56.

496 (5) Any motor vehicle subject to state and local title ad valorem tax fees under
 497 paragraph (1) of subsection (b) of this Code section shall continue to be subject to the
 498 title, license plate, revalidation decal, and registration requirements and applicable fees
 499 as otherwise provided in Title 40 in the same manner as motor vehicles which are not

500 subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b)
 501 of this Code section.

502 (6) Motor vehicles owned or leased by or to the state or any county, consolidated
 503 government, municipality, county or independent school district, or other government
 504 entity in this state shall not be subject to the state and local title ad valorem tax fees
 505 provided for under paragraph (1) of subsection (b) of this Code section; provided,
 506 however, that such other government entity shall not qualify for the exclusion under this
 507 paragraph unless it is exempt from ad valorem tax and sales and use tax pursuant to
 508 general law.

509 (7)(A) Any motor vehicle which is exempt from sales and use tax pursuant to
 510 paragraph (30) of Code Section 48-8-3 shall be exempt from state and local title ad
 511 valorem tax fees under this subsection.

512 (B) Any motor vehicle which is exempt from ad valorem taxation pursuant to Code
 513 Section 48-5-478, 48-5-478.1, 48-5-478.2, or 48-5-478.3 shall be exempt from state and
 514 local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code
 515 section.

516 (8) There shall be a penalty imposed on the transfer of all or any part of the interest in a
 517 business entity that includes primarily as an asset of such business entity one or more
 518 motor vehicles, when, in the determination of the state revenue commissioner, such
 519 transfer is done to evade the payment of state and local title ad valorem tax fees under
 520 this subsection. Such penalty shall not exceed \$2,500.00 as a state penalty per motor
 521 vehicle and shall not exceed \$2,500.00 as a local penalty per motor vehicle, as
 522 determined by the state revenue commissioner, plus the amount of the state and local title
 523 ad valorem tax fees. Such determination shall be made within 60 days of the state
 524 revenue commissioner receiving information that a transfer may be in violation of this
 525 paragraph.

526 (9) Any owner of any motor vehicle who fails to submit within 30 days of the date such
 527 owner is required by law to register such vehicle in this state an application for a first
 528 certificate of title under Code Section 40-3-21 or a certificate of title under Code
 529 Section 40-3-32 shall be required to pay a penalty in the amount of 10 percent of the state
 530 title ad valorem tax fees and 10 percent of the local title ad valorem tax fees required
 531 under this Code section, plus interest at the rate of 1.0 percent per month, unless a
 532 temporary permit has been issued by the tax commissioner. The tax commissioner shall
 533 grant a temporary permit in the event the failure to timely apply for a first certificate of
 534 title is due to the failure of a lienholder to comply with Code Section 40-3-56, regarding
 535 release of a security interest or lien, and no penalty or interest shall be assessed. Such
 536 penalty and interest shall be in addition to the penalty and fee required under Code

537 Section 40-3-21 or 40-3-32, as applicable. A new or used motor vehicle dealer shall be
 538 responsible for remitting state and local title ad valorem tax fees in the same manner as
 539 otherwise required of an owner under this paragraph and shall be subject to the same
 540 penalties and interest as an owner for noncompliance with the requirements of this
 541 paragraph.

542 (10) The owner of any motor vehicle purchased in this state for which a title was issued
 543 in this state on or after January 1, 2012, and prior to March 1, 2013, shall be authorized
 544 to opt in to the provisions of this subsection at any time prior to January 1, 2014, upon
 545 compliance with the following requirements:

546 (A)(i) The total amount of state and local title ad valorem tax fees which would be
 547 due from March 1, 2013, to December 31, 2013, if such vehicle had been titled in
 548 2013 shall be determined; and

549 (ii) The total amount of state and local sales and use tax and state and local ad
 550 valorem tax under Chapter 5 of Title 48 which were due and paid in 2012 for that
 551 motor vehicle and, if applicable, the total amount of such taxes which were due and
 552 paid for that motor vehicle in 2013 shall be determined; and

553 (B)(i) If the amount derived under division (i) of subparagraph (A) of this paragraph
 554 is greater than the amount derived under division (ii) subparagraph (A) of this
 555 paragraph, the owner shall remit the difference to the tag agent. Such remittance shall
 556 be deemed local title ad valorem tax fee proceeds; or

557 (ii) If the amount derived under division (i) of subparagraph (A) of this paragraph is
 558 less than the amount derived under division (ii) of subparagraph (A) of this paragraph,
 559 no additional amount shall be due and payable by the owner.

560 Upon certification by the tag agent of compliance with the requirements of this
 561 paragraph, such motor vehicle shall not be subject to ad valorem tax as otherwise
 562 required under Chapter 5 of Title 48 in the same manner as otherwise provided in
 563 paragraph (1) of subsection (b) of this Code section.

564 (11)(A) In the case of rental motor vehicles owned by a rental motor vehicle concern,
 565 the state title ad valorem tax fee shall be in an amount equal to .75 percent of the fair
 566 market value of the motor vehicle, and the local title ad valorem tax fee shall be in an
 567 amount equal to .75 percent of the fair market value of the motor vehicle, but only if
 568 in the immediately prior calendar year the average amount of sales and use tax
 569 attributable to the rental charge of each such rental motor vehicle was at least \$400.00
 570 as certified by the state revenue commissioner.

571 (B) Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized
 572 by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

573 (12) A loaner vehicle shall not be subject to state and local title ad valorem tax fees
 574 under paragraph (1) of subsection (b) of this Code section for a period of time not to
 575 exceed six months in a calendar year commencing on the date such loaner vehicle is
 576 withdrawn temporarily from inventory. Immediately upon the expiration of such
 577 six-month period, if the dealer does not return the loaner vehicle to inventory for resale,
 578 the dealer shall be responsible for remitting state and local title ad valorem tax fees in the
 579 same manner as otherwise required of an owner under paragraph (9) of this subsection
 580 and shall be subject to the same penalties and interest as an owner for noncompliance
 581 with the requirements of paragraph (9) of this subsection.

582 (13) Any motor vehicle which is donated to a nonprofit organization exempt from
 583 taxation under Section 501(c)(3) of the Internal Revenue Code for the purpose of being
 584 transferred to another person shall, when titled in the name of such nonprofit
 585 organization, not be subject to state and local title ad valorem tax fees under
 586 paragraph (1) of subsection (b) of this Code section but shall be subject to state and local
 587 title ad valorem tax fees otherwise applicable to salvage titles under paragraph (2) of
 588 subsection (b) of this Code section.

589 (e) The fair market value of any motor vehicle subject to this Code section shall be
 590 appealable in the same manner as otherwise authorized for a motor vehicle subject to ad
 591 valorem taxation under Code Section 48-5-450.

592 (f) Beginning in 2014, on or before January 31 of each year, the department shall provide
 593 a report to the chairpersons of the House Committee on Ways and Means and the Senate
 594 Finance Committee showing the state and local title ad valorem tax fee revenues collected
 595 pursuant to this chapter and the motor vehicle ad valorem tax proceeds collected pursuant
 596 to Chapter 5 of this title during the preceding calendar year."

597 **SECTION 1-5.**

598 Said title is further amended in Code Section 48-8-3, relating to exemptions from sales and
 599 use tax, by replacing "; or" with a semicolon at the end of paragraph (90), replacing the
 600 period at the end of paragraph (91) with "; or", and by adding a new paragraph to read as
 601 follows:

602 "(92) The sale or purchase of any motor vehicle titled in this state on or after March 1,
 603 2013, pursuant to Code Section 48-5B-1. This exemption shall not apply to leases or
 604 rentals of motor vehicles or to those sales and use taxes collected pursuant to
 605 subsection (d) of Code Section 48-8-241."

606

PART II

607

SECTION 2-1.

608 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 609 amended by revising subsection (b) of Code Section 48-7-26, relating to personal exemptions
 610 from income taxes, as follows:

611 "(b)(1) An exemption of ~~\$5,400.00~~ \$7,400.00 shall be allowed as a deduction in
 612 computing Georgia taxable income of a taxpayer and spouse, but only if a joint return is
 613 filed. If a taxpayer and spouse file separate returns, \$3,700.00 shall be allowed to each
 614 person as a deduction in computing Georgia taxable income.

615 (2) An exemption of \$2,700.00 shall be allowed as a deduction in computing Georgia
 616 taxable income for ~~each taxpayer other than a taxpayer who files a joint return~~ all
 617 taxpayers other than taxpayers who qualify for the exemption provided for in paragraph
 618 (1) of this subsection.

619 ~~(3)(A) For taxable years beginning on or after January 1, 1994, and prior to January 1,~~
 620 ~~1995, an exemption of \$2,000.00 for each dependent of a taxpayer shall be allowed as~~
 621 ~~a deduction in computing Georgia taxable income of the taxpayer.~~

622 ~~(B) For taxable years beginning on or after January 1, 1995, and prior to January 1,~~
 623 ~~1998, an exemption of \$2,500.00 for each dependent of a taxpayer shall be allowed as~~
 624 ~~a deduction in computing Georgia taxable income of the taxpayer.~~

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

628 ~~(4)~~(3) Commencing with the taxable year beginning January 1, 2003, an exemption of
 629 \$3,000.00 for each dependent of a taxpayer shall be allowed as a deduction in computing
 630 Georgia taxable income of the taxpayer."

631

SECTION 2-2.

632 Said title is further amended by revising paragraph (5) of subsection (a) of Code Section
 633 48-7-27, relating to the computation of taxable net income, as follows:

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

636 (i) For taxable years beginning on or after January 1, 1989, and prior to January 1,
 637 1990, retirement income not to exceed an exclusion amount of \$8,000.00 per year
 638 received from any source;

639 (ii) For taxable years beginning on or after January 1, 1990, and prior to January 1,
 640 1994, retirement income not to exceed an exclusion amount of \$10,000.00 per year
 641 received from any source;

- 642 (iii) For taxable years beginning on or after January 1, 1994, and prior to January 1,
643 1995, retirement income from any source not to exceed an exclusion amount of
644 \$11,000.00;
- 645 (iv) For taxable years beginning on or after January 1, 1995, and prior to January 1,
646 1999, retirement income from any source not to exceed an exclusion amount of
647 \$12,000.00;
- 648 (v) For taxable years beginning on or after January 1, 1999, and prior to January 1,
649 2000, retirement income from any source not to exceed an exclusion amount of
650 \$13,000.00;
- 651 (vi) For taxable years beginning on or after January 1, 2000, and prior to January 1,
652 2001, retirement income not to exceed an exclusion amount of \$13,500.00 per year
653 received from any source;
- 654 (vii) For taxable years beginning on or after January 1, 2001, and prior to January 1,
655 2002, retirement income from any source not to exceed an exclusion amount of
656 \$14,000.00;
- 657 (viii) For taxable years beginning on or after January 1, 2002, and prior to January
658 1, 2003, retirement income from any source not to exceed an exclusion amount of
659 \$14,500.00;
- 660 (ix) For taxable years beginning on or after January 1, 2003, and prior to January 1,
661 2006, retirement income from any source not to exceed an exclusion amount of
662 \$15,000.00;
- 663 (x) For taxable years beginning on or after January 1, 2006, and prior to January 1,
664 2007, retirement income from any source not to exceed an exclusion amount of
665 \$25,000.00;
- 666 (xi) For taxable years beginning on or after January 1, 2007, and prior to January 1,
667 2008, retirement income from any source not to exceed an exclusion amount of
668 \$30,000.00;
- 669 (xii) For taxable years beginning on or after January 1, 2008, and prior to January 1,
670 2012, retirement income from any source not to exceed an exclusion amount of
671 \$35,000.00; and
- 672 (xiii) For taxable years beginning on or after January 1, 2012, ~~and prior to January~~
673 ~~1, 2013~~, retirement income from any source not to exceed an exclusion amount of
674 \$35,000.00 for each taxpayer meeting the eligibility requirement set forth in division
675 (i) or (ii) of subparagraph (D) of this paragraph or an amount of \$65,000.00 for each
676 taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph
677 (D) of this paragraph;

678 ~~(xiv) For taxable years beginning on or after January 1, 2013, and prior to January~~
 679 ~~1, 2014, retirement income from any source not to exceed an exclusion amount of~~
 680 ~~\$35,000.00 for each taxpayer meeting the eligibility requirement set forth in division~~
 681 ~~(i) or (ii) of subparagraph (D) of this paragraph or an amount of \$100,000.00 for each~~
 682 ~~taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph~~
 683 ~~(D) of this paragraph;~~

684 ~~(xv) For taxable years beginning on or after January 1, 2014, and prior to January 1,~~
 685 ~~2015, retirement income from any source not to exceed an exclusion amount of~~
 686 ~~\$35,000.00 for each taxpayer meeting the eligibility requirement set forth in division~~
 687 ~~(i) or (ii) of subparagraph (D) of this paragraph or an amount of \$150,000.00 for each~~
 688 ~~taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph~~
 689 ~~(D) of this paragraph;~~

690 ~~(xvi) For taxable years beginning on or after January 1, 2015, and prior to January~~
 691 ~~1, 2016, retirement income from any source not to exceed an exclusion amount of~~
 692 ~~\$35,000.00 for each taxpayer meeting the eligibility requirement set forth in division~~
 693 ~~(i) or (ii) of subparagraph (D) of this paragraph or an amount of \$200,000.00 for each~~
 694 ~~taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph~~
 695 ~~(D) of this paragraph; and~~

696 ~~(xvii) For taxable years beginning on or after January 1, 2016, retirement income~~
 697 ~~from any source not to exceed an exclusion amount of \$35,000.00 for each taxpayer~~
 698 ~~meeting the eligibility requirement set forth in division (i) or (ii) of subparagraph (D)~~
 699 ~~of this paragraph or an exclusion of all retirement income from any source for each~~
 700 ~~taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph~~
 701 ~~(D) of this paragraph;~~

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

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

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

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

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

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

716 (E) For the purposes of this paragraph, retirement income shall include but not be
 717 limited to interest income, dividend income, net income from rental property, capital
 718 gains income, income from royalties, income from pensions and annuities, and no more
 719 than \$4,000.00 of an individual's earned income. Earned income in excess of
 720 \$4,000.00, including but not limited to net business income earned by an individual
 721 from any trade or business carried on by such individual, wages, salaries, tips, and other
 722 employer compensation, shall not be regarded as retirement income. The receipt of
 723 earned income shall not diminish any taxpayer's eligibility for the retirement income
 724 exclusions allowed by this paragraph except to the extent of the express limitation
 725 provided in this subparagraph.

726 (F) The commissioner shall by regulation require proof of the eligibility of the taxpayer
 727 for the exclusions allowed by this paragraph.

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

736 **PART III**

737 **SECTION 3-1.**

738 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 739 amended by revising Code Section 48-7-29.12, relating to tax credits for qualified donation
 740 of real property, carryover of credit, appraisals, transfer of credit, and penalty, as follows:

741 "48-7-29.12.

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

743 (1) 'Conservation easement' means a nonpossessory interest in real property imposing
 744 limitations or affirmative obligations, the purposes of which are consistent with at least
 745 two conservation purposes.

746 (2) 'Conservation purpose' means any of the following:

747 (A) Water quality protection for wetlands, rivers, streams, or lakes;

748 (B) Protection of wildlife habitat consistent with state wildlife conservation policies;

749 (C) Protection of outdoor recreation consistent with state outdoor recreation policies;

750 (D) Protection of prime agricultural or forestry lands; and

751 (E) Protection of cultural sites, heritage corridors, or archeological and historic
 752 resources.

753 (3) 'Donated property' means the real property of which a qualified donation is made
 754 pursuant to this Code section.

755 (4) 'Eligible donor' means any person who owns an interest in a qualified donation.

756 (5) 'Fair market value' means the value of the donated property established by a property
 757 appraisal or appraisals meeting the requirements of Section 170 of Title 26 of the United
 758 States Code, to be submitted in such manner as the commissioner may by regulation
 759 require as determined pursuant to subsections (c.1) and (c.2) of this Code section.

760 ~~(2)~~(6) 'Qualified donation' means the fee simple conveyance to the state; a county, a
 761 municipality, or a consolidated government of this state; to the federal government; or a
 762 bona fide charitable nonprofit organization qualified under the Internal Revenue Code
 763 and, beginning on January 1, 2014, accredited by the Land Trust Accreditation
 764 Commission of 100 percent of all right, title, and interest in the entire parcel of donated
 765 real property, which and the donation is accepted by such state, county, municipality,
 766 consolidated government, federal government, or bona fide charitable nonprofit
 767 organization for use in a manner consistent with at least two conservation purposes. Such
 768 term shall also include the donation to and acceptance by the state; a county, a
 769 municipality, or a consolidated government of this state; to the federal government; or a
 770 bona fide charitable nonprofit organization qualified under the Internal Revenue Code
 771 and, beginning on January 1, 2014, accredited by the Land Trust Accreditation
 772 Commission of an interest in real property which qualifies as a conservation easement
 773 under paragraph (4) of Code Section 12-6A-2. Any real property which is otherwise
 774 required to be dedicated pursuant to local government regulations or ordinances or to
 775 increase building density levels shall not be eligible as a qualified donation under this
 776 Code section. Any real property which is used for or associated with the playing of golf
 777 or is planned to be so used or associated shall not be eligible as a qualified donation under
 778 this Code section.

779 ~~(3)~~ 'Eligible donor' means any person who owns an interest in a qualified donation.

780 ~~(4)~~(7) 'Related person' has the meaning provided by Code Section 48-7-28.3.

781 ~~(5)~~(8) 'Substantial valuation misstatement' means a valuation such that the claimed value
 782 of any property claimed on any return of tax imposed under this chapter, or on any claim
 783 for refund of such tax, on the appraisal as submitted to the State Properties Commission
 784 is 150 percent or more of the amount determined to be the correct amount of such
 785 valuation pursuant to subsections (c.1) and (c.2) of this Code section.

786 (b)(1) A taxpayer shall be allowed a state income tax credit against the tax imposed by
 787 Code Section 48-7-20 or Code Section 48-7-21 for each qualified donation ~~of real~~
 788 ~~property for conservation purposes~~ under this Code section.

789 (2) Except as otherwise provided in paragraph (3) of this subsection and in subsection
 790 (d) of this Code section, such credit shall be limited to an amount not to exceed the lesser
 791 of \$500,000.00, 25 percent of the fair market value of the donated real property as fair
 792 market value is established for the year in which the donation occurred, or 25 percent of
 793 the difference between the fair market value and the amount paid to the donor if the
 794 donation is effected by a sale of property for less than fair market value as established for
 795 the year in which the donation occurred.

796 (3) Except as otherwise provided in subsection (d) of this Code section, in the case of a
 797 taxpayer whose net income is determined under Code Section 48-7-23, the aggregate total
 798 credit allowed to all partners in a partnership shall be limited to an amount not to exceed
 799 the lesser of ~~\$1 million~~ \$500,000.00, 25 percent of the fair market value of the donated
 800 real property as fair market value is established for the year in which the donation
 801 occurred, or 25 percent of the difference between the fair market value and the amount
 802 paid to the donor if the donation is effected by a sale of property for less than fair market
 803 value as established for the year in which the donation occurred.

804 (c) No tax credit shall be allowed under this Code section unless the taxpayer files with
 805 the taxpayer's income tax return a copy of the State Property Commission's determination
 806 and a copy of a certification issued by the Department of Natural Resources that the
 807 donated property is suitable for conservation purposes: and meets the following additional
 808 requirements, where applicable:

809 (1) Subdivision is prohibited for a donated property of less than 500 acres and limited
 810 to one subdivision for a donated property of 500 acres or more;

811 (2) New construction on donated property of structures, roads, impoundments, ditches,
 812 dumping, or any other activity that would harm the protected conservation values of such
 813 donation is prohibited on such property;

814 (3) New construction on donated property within 150 feet of any perennial or
 815 intermittent stream is prohibited;

816 (4) A buffer of at least 100 feet on each side of any perennial streams on donated
 817 property which ensures at least 75 percent tree canopy evenly distributed after harvest is
 818 maintained and a buffer of at least 50 feet on each side of any intermittent streams on
 819 donated property which ensures at least 75 percent tree canopy evenly distributed after
 820 harvest is maintained;

821 (5) Timber and agricultural activities undertaken on the donated property are prohibited
 822 unless in accordance with best management practices published by the State Forestry
 823 Commission or the Soil and Water Conservation Commission, as the case may be;

824 (6) New construction on donated property causing more than 1 percent of such property's
 825 total surface area to be covered by impervious surfaces is prohibited;

826 (7) Mining on the property is prohibited; and

827 (8) Planting on the donated property of non-native invasive species listed in Category 1,
 828 Category 1 Alert, or Category 2 of the 'List of Non-Native Invasive Plants in Georgia'
 829 developed by the Georgia Exotic Pest Council is prohibited.

830 ~~The Board of Natural Resources shall promulgate any rules and regulations necessary to~~
 831 ~~implement and administer this subsection, including, but not limited to, policies to guide~~
 832 ~~the determination of whether or not donated property is suitable for conservation purposes.~~
 833 ~~A final determination by the Department of Natural Resources with respect to the~~
 834 ~~suitability of donated property for conservation purposes shall be subject to review and~~
 835 ~~appeal under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'~~

836 (c.1) For each application for certification, the Department of Natural Resources shall
 837 require submission of an appraisal of the qualified donation by the taxpayer along with a
 838 nonrefundable \$5,000.00 application fee; provided, however, that the nonrefundable
 839 application fee for property donated to the state shall be 1 percent of the total value of the
 840 donation, unless such donation is being made to qualify the state for a federal or state grant.

841 The appraisal required by this subsection shall be a full narrative appraisal and include:

842 (1) A certification page, as established by the Uniform Standards of Professional
 843 Appraisal Practice, signed by the appraiser; and

844 (2) An affidavit signed by the appraiser which includes a statement specifying:

845 (A) The value of the unencumbered property, the total value of the qualified donation
 846 in gross, and an accompanying statement identifying the methods used to determine
 847 such values;

848 (B) Whether a subdivision analysis was used in the appraisal;

849 (C) Whether the landowner or related persons own any other property, the value of
 850 which is increased as a result of the donation; and

851 (D) That the appraiser is certified pursuant to Chapter 39A of Title 43.

852 Appraisals received by the Department of Natural Resources shall be forwarded to the State
 853 Properties Commission for review. The State Properties Commission shall approve the
 854 appraisal amount submitted or recommend a lower amount based on its review and inform
 855 the Department of Natural Resources of its determination. The State Properties
 856 Commission shall be authorized to promulgate any rules and regulations necessary to
 857 administer the provisions of this subsection. Any appraisal deemed to contain a substantial

858 valuation misstatement shall be submitted to the Georgia Real Estate Commission for
 859 further investigation and disciplinary action. Upon receipt of the State Properties
 860 Commission's determination, the Department of Natural Resources may proceed with the
 861 certification process.

862 (c.2) The Board of Natural Resources shall promulgate any rules and regulations necessary
 863 to implement and administer subsections (c) and (c.1) of this Code section. A final
 864 determination by the Department of Natural Resources or the State Properties Commission
 865 shall be subject to review and appeal under Chapter 13 of Title 50, the 'Georgia
 866 Administrative Procedure Act.'

867 (d)(1) In no event shall the total amount of any tax credit under this Code section for a
 868 taxable year exceed the taxpayer's income tax liability. In no event shall the total amount
 869 of the tax credit allowed to a taxpayer under subsection (b) of this Code section exceed
 870 \$250,000.00 with respect to tax liability determined under Code Section 48-7-20 or
 871 \$500,000.00 with respect to tax liability determined under Code Section 48-7-21. Any
 872 unused tax credit shall be allowed to be carried forward to apply to the taxpayer's
 873 succeeding ten years' tax liability. However, the amount in excess of such annual dollar
 874 limits shall not be eligible for carryover to the taxpayer's succeeding years' tax liability
 875 nor shall such excess amount be claimed by or reallocated to any other taxpayer. No such
 876 tax credit shall be allowed the taxpayer against prior years' tax liability.

877 (2) Only one qualified donation may be made with respect to any real property that was,
 878 in the ~~year~~ five years prior to donation, within the same tax parcel of record, except that
 879 a subsequent donation may be made by a person who is not a related person with respect
 880 to any prior eligible donors of any portion of such tax parcel.

881 (d.1) Any tax credits under this Code section earned by a taxpayer in the taxable years
 882 beginning on or after January 1, 2013, and previously claimed but not used by such
 883 taxpayer against such taxpayer's income tax may be transferred or sold in whole or in part
 884 by such taxpayer to another Georgia taxpayer, subject to the following conditions:

885 (1) The transferor may make only a single transfer or sale of tax credits earned in a
 886 taxable year; however, the transfer or sale may involve one or more transferees;

887 ~~(1)~~(2) The transferor shall submit to the department a written notification of any transfer
 888 or sale of tax credits within 30 days after the transfer or sale of such tax credits. The
 889 notification shall include such transferor's tax credit balance prior to transfer, the
 890 remaining balance after transfer, all tax identification numbers for each transferee, the
 891 date of transfer, the amount transferred, and any other information required by the
 892 department;

893 ~~(2)~~(3) Failure to comply with this subsection shall result in the disallowance of the tax
 894 credit until the taxpayer is in full compliance;

895 ~~(3)(4)~~ In no event shall the amount of the tax credit under this subsection claimed and
 896 allowed for a taxable year exceed the transferee's income tax liability. Any unused credit
 897 may be carried forward to subsequent taxable years provided that the transfer or sale of
 898 this tax credit does not extend the time in which such tax credit can be used. The
 899 carry-forward period for tax credit that is transferred or sold shall begin on the date on
 900 which the tax credit was originally earned; and

901 ~~(4)(5)~~ A transferee shall have only such rights to claim and use the tax credit that were
 902 available to the transferor at the time of the transfer. To the extent that such transferor
 903 did not have rights to claim and use the tax credit at the time of the transfer, the
 904 department shall either disallow the tax credit claimed by the transferee or recapture the
 905 tax credit from the transferee. The transferee's recourse is against the transferor.

906 (e)(1) Whenever:

907 (A) Any person prepares an appraisal of the value of property and knows, or
 908 reasonably should have known, that the appraisal would be used in connection with a
 909 return or a claim for refund claiming a tax credit under this Code section; and

910 (B) The claimed value of the property ~~on a return or claim for refund which is based~~
 911 ~~on such appraisal~~ as submitted to the State Properties Commission results in a
 912 substantial valuation misstatement with respect to such property for purposes of
 913 claiming a tax credit under this Code section,

914 then such person shall pay a penalty in the amount determined under paragraph (2) of this
 915 subsection.

916 (2) The amount of the penalty imposed under paragraph (1) of this subsection on any
 917 person with respect to an appraisal shall be equal to the lesser of:

918 (A) The greater of:

919 (i) Twenty-five percent of the difference between the amount of the tax credit
 920 claimed on the taxpayer's return or claim for refund and the amount of the tax credit
 921 to which the taxpayer is actually entitled, to the extent the difference is attributable
 922 to the misstatement described in ~~subparagraph (e)(1)(B) of this Code section~~
 923 paragraph (1) of this subsection; or

924 (ii) ~~One~~ Ten thousand dollars; or

925 (B) One hundred twenty-five percent of the gross income received by the person
 926 described in ~~subparagraph (e)(1)(A) of this Code section~~ paragraph (1) of this
 927 subsection for the preparation of the appraisal.

928 (3) No penalty shall be imposed under paragraph (1) of this subsection if the person
 929 establishes to the satisfaction of the commissioner that the value established in the
 930 appraisal was more likely than not the proper value.

931 (4) Except as otherwise provided, the penalty provided by this subsection shall be in
 932 addition to any other penalties provided by law. The amount of any penalty under this
 933 subsection shall be assessed within three years after the return or claim for refund with
 934 respect to which the penalty is assessed was filed, and no proceeding in court without
 935 assessment for the collection of such penalty shall be begun after the expiration of such
 936 period. Any claim for refund of an overpayment of the penalty assessed under this
 937 subsection shall be filed within three years from the time the penalty was paid.

938 (f) No credit shall be allowed under this Code section with respect to any amount deducted
 939 from taxable net income by the taxpayer as a charitable contribution.

940 (g) The commissioner shall promulgate any rules and regulations necessary to implement
 941 and administer this Code section."

942 **SECTION 3-2.**

943 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by
 944 adding a new subsection to Code Section 44-10-3, relating to the creation or alteration of
 945 conservation easements, as follows:

946 "(f) No county, municipality, or consolidated government shall hold a conservation
 947 easement unless the encumbered real property lies at least partly within the jurisdictional
 948 boundaries of such county, municipality, or consolidated government."

949 **PART IV**

950 **SECTION 4-1.**

951 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 952 amended by revising paragraph (73) of Code Section 48-8-3, relating to exemptions from
 953 sales and use tax, as follows:

954 ~~"(73)(A) The sale or lease of production equipment or production services for use in this~~
 955 ~~state by a certified film producer or certified film production company for qualified~~
 956 ~~production activities.~~

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

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

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

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

966 ~~(iv) 'Production services' means services purchased for use exclusively in qualified~~
 967 ~~production activities in Georgia, including, but not limited to, digital or tape editing,~~
 968 ~~film processing, transfers of film to tape or digital format, sound mixing, computer~~
 969 ~~graphics services, special effects services, animation services, and script production.~~
 970 ~~(v) 'Qualified production activities' means the production or post production of film~~
 971 ~~or video projects such as feature films, series, pilots, movies for television,~~
 972 ~~commercials, music videos, or sound recordings used in feature films, series, pilots,~~
 973 ~~or movies for television, for which the film producer or film production company will~~
 974 ~~be compensated and which are intended for nation-wide commercial distribution.~~
 975 ~~(C) Any person making a sale of production equipment or production services to a film~~
 976 ~~producer or film production company as specified in this paragraph shall collect the tax~~
 977 ~~imposed on the sale by this article unless the purchaser furnishes such seller with a~~
 978 ~~certificate issued by the commissioner certifying that the purchaser is entitled to~~
 979 ~~purchase the production equipment or production services without paying the tax. As~~
 980 ~~a condition precedent to the issuance of the certificate, film producers and film~~
 981 ~~production companies shall submit an application to the commissioner for designation~~
 982 ~~as a certified film producer or certified film production company. Such application~~
 983 ~~shall not be valid without prior written approval by the Georgia Film and Videotape~~
 984 ~~Office of the Department of Economic Development Reserved;"~~

985 PART V

986 SECTION 5-1.

987 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 988 amended by revising paragraphs (25), (26), (27), (28), (29), (29.1), (34), (34.3), (35), (37),
 989 (49), (64), (77), (79), and (90) of Code Section 48-8-3, relating to exemptions from sales and
 990 use tax, as follows:

991 ~~"(25) The sale of seed, fertilizers, insecticides, fungicides, rodenticides, herbicides;~~
 992 ~~defoliant, soil fumigants, plant growth regulating chemicals, desiccants, including, but~~
 993 ~~not limited to, shavings and sawdust from wood, peanut hulls, fuller's earth, straw, and~~
 994 ~~hay; and feed for livestock, fish, or poultry when used either directly in tilling the soil or~~
 995 ~~in animal, fish, or poultry husbandry Reserved;~~

996 ~~(26) The sale to persons engaged primarily in producing farm crops for sale of~~
 997 ~~machinery and equipment which is used exclusively for irrigation of farm crops~~
 998 ~~including, but not limited to, fruit, vegetable, and nut crops Reserved;~~

999 ~~(27) The sale of sugar used as food for honeybees kept for the commercial production~~
 1000 ~~of honey, beeswax, and honeybees when the commissioner's prior approval is obtained~~
 1001 ~~Reserved;~~

- 1002 ~~(28) The sale of cattle, hogs, sheep, horses, poultry, or bees when sold for breeding~~
 1003 ~~purposes~~ Reserved;
- 1004 ~~(29) The sale of the following types of agricultural machinery:~~
- 1005 ~~(A) Machinery and equipment for use on a farm in the production of poultry and eggs~~
 1006 ~~for sale;~~
- 1007 ~~(B) Machinery and equipment used in the hatching and breeding of poultry and the~~
 1008 ~~breeding of livestock;~~
- 1009 ~~(C) Machinery and equipment for use on a farm in the production, processing, and~~
 1010 ~~storage of fluid milk for sale;~~
- 1011 ~~(D) Machinery and equipment for use on a farm in the production of livestock for sale;~~
- 1012 ~~(E) Machinery and equipment which is used by a producer of poultry, eggs, fluid milk,~~
 1013 ~~or livestock for sale for the purpose of harvesting farm crops to be used on the farm by~~
 1014 ~~that producer as feed for poultry or livestock;~~
- 1015 ~~(F) Machinery which is used directly in tilling the soil or in animal husbandry when~~
 1016 ~~the machinery is incorporated for the first time into a new farm unit engaged in tilling~~
 1017 ~~the soil or in animal husbandry in this state;~~
- 1018 ~~(G) Machinery which is used directly in tilling the soil or in animal husbandry when~~
 1019 ~~the machinery is incorporated as additional machinery for the first time into an existing~~
 1020 ~~farm unit already engaged in tilling the soil or in animal husbandry in this state;~~
- 1021 ~~(H) Machinery which is used directly in tilling the soil or in animal husbandry when~~
 1022 ~~the machinery is bought to replace machinery in an existing farm unit already engaged~~
 1023 ~~in tilling the soil or in animal husbandry in this state;~~
- 1024 ~~(I) Rubber-tired farm tractors and attachments to the tractors which are sold to persons~~
 1025 ~~engaged primarily in producing farm crops for sale and which are used exclusively in~~
 1026 ~~tilling, planting, cultivating, and harvesting farm crops, and equipment used exclusively~~
 1027 ~~in harvesting farm crops or in processing onion crops which are sold to persons~~
 1028 ~~engaged primarily in producing farm crops for sale. For the purposes of this~~
 1029 ~~subparagraph, the term 'farm crops' includes only those crops which are planted and~~
 1030 ~~harvested within a 12-month period; and~~
- 1031 ~~(J) Pecan sprayers, pecan shakers, and other equipment used in harvesting pecans~~
 1032 ~~which is sold to persons engaged in the growing, harvesting, and production of pecans~~
 1033 Reserved;
- 1034 ~~(29.1) The sale or use of any off-road equipment and related attachments which are sold~~
 1035 ~~to or used by persons engaged primarily in the growing or harvesting of timber and which~~
 1036 ~~are used exclusively in site preparation, planting, cultivating, or harvesting timber.~~
 1037 ~~Equipment used in harvesting shall include all off-road equipment and related~~
 1038 ~~attachments used in every forestry procedure starting with the severing of a tree from the~~

1039 ~~ground until and including the point at which the tree or its parts in any form has been~~
 1040 ~~loaded in the field in or on a truck or other vehicle for transport to the place of use. Such~~
 1041 ~~off-road equipment shall include, but not be limited to, skidders, feller bunchers,~~
 1042 ~~debarkers, delimiters, chip harvesters, tub-grinders, woods cutters, chippers of all types,~~
 1043 ~~loaders of all types, dozers, and motor graders and the related attachments Reserved;~~"

1044 ~~"(34) The sale of the following types of manufacturing machinery:~~

1045 ~~(A) Machinery or equipment which is necessary and integral to the manufacture of~~
 1046 ~~tangible personal property when the machinery or equipment is bought to replace or~~
 1047 ~~upgrade machinery or equipment in a manufacturing plant presently existing in this~~
 1048 ~~state and machinery or equipment components which are purchased to upgrade~~
 1049 ~~machinery or equipment which is necessary and integral to the manufacture of tangible~~
 1050 ~~personal property in a manufacturing plant;~~

1051 ~~(B) Machinery or equipment which is necessary and integral to the manufacture of~~
 1052 ~~tangible personal property when the machinery or equipment is used for the first time~~
 1053 ~~in a new manufacturing plant located in this state;~~

1054 ~~(C) Machinery or equipment which is necessary and integral to the manufacture of~~
 1055 ~~tangible personal property when the machinery or equipment is used as additional~~
 1056 ~~machinery or equipment for the first time in a manufacturing plant presently existing~~
 1057 ~~in this state; and~~

1058 ~~(D) Any person making a sale of machinery or equipment for the purpose specified in~~
 1059 ~~subparagraph (B) of this paragraph shall collect the tax imposed on the sale by this~~
 1060 ~~article unless the purchaser furnishes him with a certificate issued by the commissioner~~
 1061 ~~certifying that the purchaser is entitled to purchase the machinery or equipment without~~
 1062 ~~paying the tax. As a condition precedent to the issuance of the certificate, the~~
 1063 ~~commissioner, at the commissioner's discretion, may require a good and valid bond~~
 1064 ~~with a surety company authorized to do business in this state as surety or may require~~
 1065 ~~legal securities, in an amount fixed by the commissioner, conditioned upon payment by~~
 1066 ~~the purchaser of all taxes due under this article in the event it should be determined that~~
 1067 ~~the sale fails to meet the requirements of this subparagraph~~

1068 ~~Reserved;~~"

1069 ~~"(34.3)(A) The sale or use of repair or replacement parts, machinery clothing or~~
 1070 ~~replacement machinery clothing, molds or replacement molds, dies or replacement dies,~~
 1071 ~~waxes, and tooling or replacement tooling for machinery which is necessary and~~
 1072 ~~integral to the manufacture of tangible personal property in a manufacturing plant~~
 1073 ~~presently existing in this state.~~

1074 ~~(B) The commissioner shall promulgate rules and regulations to implement and~~
 1075 ~~administer this paragraph~~

1076 Reserved;"

1077 ~~"(35)(A) The sale, use, storage, or consumption of:~~

1078 ~~(i) Industrial materials for future processing, manufacture, or conversion into articles~~
 1079 ~~of tangible personal property for resale when the industrial materials become a~~
 1080 ~~component part of the finished product;~~

1081 ~~(ii) Industrial materials other than machinery and machinery repair parts that are~~
 1082 ~~coated upon or impregnated into the product at any stage of its processing,~~
 1083 ~~manufacture, or conversion; or~~

1084 ~~(iii) Materials, containers, labels, sacks, or bags used for packaging tangible personal~~
 1085 ~~property for shipment or sale. To qualify for the packaging exemption, the items shall~~
 1086 ~~be used solely for packaging and shall not be purchased for reuse;~~

1087 ~~(B) As used in this paragraph, the term 'industrial materials' does not include natural~~
 1088 ~~or artificial gas, oil, gasoline, electricity, solid fuel, ice, or other materials used for heat,~~
 1089 ~~light, power, or refrigeration in any phase of the manufacturing, processing, or~~
 1090 ~~converting process~~

1091 Reserved;"

1092 ~~"(37) The sale of machinery and equipment for use in combating air and water pollution~~
 1093 ~~and any industrial material bought for further processing in the manufacture of tangible~~
 1094 ~~personal property for sale or any part of the industrial material or by-product thereof~~
 1095 ~~which becomes a wasteful product contributing to pollution problems and which is used~~
 1096 ~~up in a recycling or burning process. Any person making a sale of machinery and~~
 1097 ~~equipment for the purposes specified in this paragraph shall collect a tax imposed on the~~
 1098 ~~sale by this article unless the purchaser furnishes the person making the sale with a~~
 1099 ~~certificate issued by the commissioner certifying that the purchaser is entitled to purchase~~
 1100 ~~the machinery, equipment, or industrial material without paying the tax Reserved;"~~

1101 ~~"(49) Sales of liquefied petroleum gas or other fuel used in a structure in which broilers,~~
 1102 ~~pullets, or other poultry are raised Reserved;"~~

1103 ~~"(64) The sale of electricity or other fuel for the operation of an irrigation system which~~
 1104 ~~is used on a farm exclusively for the irrigation of crops Reserved;"~~

1105 ~~"(77) Sales of liquefied petroleum gas or other fuel used in a structure in which plants,~~
 1106 ~~seedlings, nursery stock, or floral products are raised primarily for the purposes of~~
 1107 ~~making sales of such plants, seedlings, nursery stock, or floral products for resale~~
 1108 ~~Reserved;"~~

1109 ~~"(79) The sale or use of ice for chilling poultry or vegetables in processing for market~~
 1110 ~~and for chilling poultry or vegetables in storage rooms, compartments, or delivery trucks~~
 1111 ~~Reserved;"~~

1112 ~~"(90) The sale of electricity to a manufacturer located in this state used directly in the~~
 1113 ~~manufacture of a product if the direct cost of such electricity exceeds 50 percent of the~~
 1114 ~~cost of all materials, including electricity, used directly in the product Reserved; or"~~

1115 **SECTION 5-2.**

1116 Said title is further amended by adding a new Code section to read as follows:

1117 "48-8-3.2.

1118 (a) As used in this Code section, the term:

1119 (1) 'Consumable supplies' means tangible personal property, other than machinery,
 1120 equipment, and industrial materials, that is consumed or expended during the
 1121 manufacture of tangible personal property. The term includes, but is not limited to, water
 1122 treatment chemicals for use in, on, or in conjunction with machinery or equipment and
 1123 items that are readily disposable. The term excludes packaging supplies and energy.

1124 (2) 'Energy' means natural or artificial gas, oil, gasoline, electricity, solid fuel, wood,
 1125 waste, ice, steam, water, and other materials necessary and integral for heat, light, power,
 1126 refrigeration, climate control, processing, or any other use in any phase of the
 1127 manufacture of tangible personal property. The term excludes energy purchased by a
 1128 manufacturer that is primarily engaged in producing electricity for resale.

1129 (3) 'Equipment' means tangible personal property, other than machinery, industrial
 1130 materials, and consumable supplies. The term includes durable devices and apparatuses
 1131 that are generally designed for long-term continuous or repetitive use. Examples of
 1132 equipment include, but are not limited to, machinery clothing, cones, cores, pallets, hand
 1133 tools, tooling, molds, dies, waxes, jigs, patterns, conveyors, safety devices, and pollution
 1134 control devices. The term includes components and repair or replacement parts. The
 1135 term excludes real property.

1136 (4) 'Fixtures' means tangible personal property that has been installed or attached to land
 1137 or to any building thereon and that is intended to remain permanently in its place. A
 1138 consideration for whether tangible property is a fixture is whether its removal would
 1139 cause significant damage to such property or to the real property to which it is attached.
 1140 Fixtures are classified as real property. Examples of fixtures include, but are not limited
 1141 to, plumbing, lighting fixtures, slabs, and foundations.

1142 (5) 'Industrial materials' means materials for future processing, manufacture, or
 1143 conversion into articles of tangible personal property for resale when the industrial
 1144 materials become a component part of the finished product. The term also means
 1145 materials that are coated upon or impregnated into the product at any stage of its
 1146 processing, manufacture, or conversion, even though such materials do not remain a
 1147 component part of the finished product for sale. The term includes raw materials.

1148 (6) 'Local sales and use tax' means any sales tax, use tax, or local sales and use tax which
1149 is levied and imposed in an area consisting of less than the entire state, however
1150 authorized, including, but not limited to, such taxes authorized by or pursuant to
1151 constitutional amendment; by or pursuant to Section 25 of an Act approved March 10,
1152 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit
1153 Authority Act of 1965'; and by or pursuant to any article of this chapter.

1154 (7) 'Machinery' means an assemblage of parts that transmits force, motion, and energy
1155 one to the other in a predetermined manner to accomplish a specific objective. The term
1156 includes a machine and all of its components, including, but not limited to, belts, pulleys,
1157 shafts, gauges, gaskets, valves, hoses, pipes, wires, blades, bearings, operational
1158 structures attached to the machine, including stairways and catwalks, or other devices that
1159 are required to regulate or control the machine, allow access to the machine, or enhance
1160 or alter its productivity or functionality. The term includes repair or replacement parts.
1161 The term excludes real property and consumable supplies.

1162 (8) 'Machinery clothing' means felts, screen plates, wires, or any other items used to
1163 carry, form, or dry work in process through the manufacture of tangible personal
1164 property.

1165 (9) 'Manufacture of tangible personal property,' used synonymously with the term
1166 'manufacturing,' means a manufacturing operation, series of continuous manufacturing
1167 operations, or series of integrated manufacturing operations engaged in at a
1168 manufacturing plant or among manufacturing plants to change, process, transform, or
1169 convert industrial materials by physical or chemical means into articles of tangible
1170 personal property for sale, for promotional use, or for further manufacturing that have a
1171 different form, configuration, utility, composition, or character. The term includes, but
1172 is not limited to, the storage, preparation, or treatment of industrial materials; assembly
1173 of finished units of tangible personal property to form a new unit or units of tangible
1174 personal property; movement of industrial materials and work in process from one
1175 manufacturing operation to another; temporary storage between two points in a
1176 continuous manufacturing operation; random and sample testing that occurs at a
1177 manufacturing plant; and a packaging operation that occurs at a manufacturing plant.

1178 (10) 'Manufacturer' means a person or business, or a location of a person or business, that
1179 is engaged in the manufacture of tangible personal property for sale or further
1180 manufacturing. To be considered a manufacturer, the person or business, or the location
1181 of a person or business, must be:

1182 (A) Classified as a manufacturer under the 2007 North American Industrial
1183 Classification System Sectors 21, 31, 32, or 33, or North American Industrial
1184 Classification System industry code 22111 or specific code 511110; or

1185 (B) Generally regarded as being a manufacturer.
 1186 Businesses that are primarily engaged in providing personal or professional services or
 1187 in the operation of retail outlets, generally including, but not limited to, grocery stores,
 1188 pharmacies, bakeries, or restaurants, are not considered manufacturers.

1189 (11) 'Manufacturing plant' means any facility, site, or other area where a manufacturer
 1190 engages in the manufacture of tangible personal property.

1191 (12) 'Packaging operation' means bagging, boxing, crating, canning, containerizing,
 1192 cutting, measuring, weighing, wrapping, labeling, palletizing, or other similar processes
 1193 necessary to prepare or package manufactured products in a manner suitable for sale or
 1194 delivery to customers as finished goods or suitable for the transport of work in process
 1195 at or among manufacturing plants for further manufacturing, and the movement of such
 1196 finished goods or work in process to a storage or distribution area at a manufacturing
 1197 plant.

1198 (13) 'Packaging supplies' means materials, including, but not limited to, containers,
 1199 labels, sacks, boxes, wraps, fillers, cones, cores, pallets, or bags, used in a packaging
 1200 operation solely for packaging tangible personal property.

1201 (14) 'Real property' means land, any buildings thereon, and any fixtures attached thereto.

1202 (15) 'Repair or replacement part' means a part for any machinery or equipment that is
 1203 necessary and integral to the manufacture of tangible personal property. Repair or
 1204 replacement parts must be used to maintain, repair, restore, install, or upgrade such
 1205 machinery or equipment that is necessary and integral to the manufacture of tangible
 1206 personal property. Examples of repair and replacement parts may include, but are not
 1207 limited to, oils, greases, hydraulic fluids, coolants, lubricants, machinery clothing, molds,
 1208 dies, waxes, jigs, and other interchangeable tooling.

1209 (16) 'Substantial purpose' means the purpose for which an item of tangible personal
 1210 property is used more than one-third of the time of the total amount of time that the item
 1211 is in use; alternatively, instead of time, the purpose may be measured in terms of other
 1212 applicable criteria, including, but not limited to, the number of items produced.

1213 (b) The sale, use, or storage of machinery or equipment which is necessary and integral
 1214 to the manufacture of tangible personal property and the sale, use, storage, or consumption
 1215 of industrial materials or packaging supplies shall be exempt from all sales and use
 1216 taxation.

1217 (c)(1) Except as otherwise provided in paragraph (4) of this subsection, the sale, use,
 1218 storage, or consumption of energy which is necessary and integral to the manufacture of
 1219 tangible personal property at a manufacturing plant in this state shall be exempt from all
 1220 sales and use taxation except for the sales and use tax for educational purposes levied
 1221 pursuant to Part 2 of Article 3 of this chapter and Article VIII, Section VI, Paragraph IV

1222 of the Constitution and except for local sales and use taxes for educational purposes
1223 authorized by or pursuant to local constitutional amendment. This exemption shall be
1224 phased in over a four-year period as follows:

1225 (A) For the period commencing January 1, 2013, and concluding at the last moment
1226 of December 31, 2013, such sale, use, storage, or consumption of energy shall be
1227 exempt from an amount equal to 25 percent of the total amount of state sales and use
1228 tax that would be collected at the rate of 4 percent on such sale, use, storage, or
1229 consumption of energy and shall be exempt from an amount equal to 25 percent of the
1230 total amount of each local sales and use tax that would be collected at the rate of 1
1231 percent on such sale, use, storage, or consumption of energy;

1232 (B) For the period commencing January 1, 2014, and concluding at the last moment
1233 of December 31, 2014, such sale, use, storage, or consumption of energy shall be
1234 exempt from an amount equal to 50 percent of the total amount of state sales and use
1235 tax that would be collected at the rate of 4 percent on such sale, use, storage, or
1236 consumption of energy and shall be exempt from an amount equal to 50 percent of the
1237 total amount of each local sales and use tax that would be collected at the rate of 1
1238 percent on such sale, use, storage, or consumption of energy;

1239 (C) For the period commencing January 1, 2015, and concluding at the last moment
1240 of December 31, 2015, such sale, use, storage, or consumption of energy shall be
1241 exempt from an amount equal to 75 percent of the total amount of state sales and use
1242 tax that would be collected at the rate of 4 percent on such sale, use, storage, or
1243 consumption of energy and shall be exempt from an amount equal to 75 percent of the
1244 total amount of each local sales and use tax that would be collected at the rate of 1
1245 percent on such sale, use, storage, or consumption of energy; and

1246 (D) On or after January 1, 2016, such sale, use, storage, or consumption of energy shall
1247 be fully exempt from such sales and use taxation.

1248 (2)(A) Any person making a sale of items qualifying for exemption under paragraph
1249 (1) of this subsection shall be relieved of the burden of proving such qualification if the
1250 person making the sale receives a certificate from the purchaser certifying that the
1251 purchase is exempt under this subsection.

1252 (B) Any person who qualifies for the exemption under paragraph (1) of this subsection
1253 shall notify and certify to the person making the qualified sale that such exemption is
1254 applicable to the sale.

1255 (3) With respect to services which are regularly billed on a monthly basis, the exemption
1256 under paragraph (1) of this subsection shall become effective with respect to and the
1257 exemption shall apply to services billed on or after the effective date of this Code section.

1258 (4) If a competitive project of regional significance under paragraph (92) of Code
 1259 Section 48-8-3 is started in a county or municipality, it shall not be subject to the phase-in
 1260 period contained in subparagraphs (A), (B), and (C) of paragraph (1) of this subsection,
 1261 but such project shall receive the full exemption provided for in subparagraph (D) of
 1262 paragraph (1) of this subsection notwithstanding the January 1, 2016, limitation in that
 1263 subparagraph.

1264 (d) The exemptions under this Code section shall be applied as follows:

1265 (1) The manufacture of tangible personal property commences as industrial materials are
 1266 received at a manufacturing plant and concludes once the packaging operation is
 1267 complete and the tangible personal property is ready for sale or shipment, regardless of
 1268 whether the manufacture of tangible personal property occurs at one or more separate
 1269 manufacturing plants;

1270 (2) For machinery or equipment that has multiple purposes, some purposes necessary and
 1271 integral to the manufacture of tangible personal property and some purposes not
 1272 necessary and integral to the manufacture of tangible personal property, the substantial
 1273 purpose of such machinery or equipment will prevail for purposes of determining the
 1274 eligibility for exemption. The commissioner shall consider any reasonable methodology
 1275 for measuring the substantial purpose of machinery or equipment for which the
 1276 substantial purpose is not readily identifiable;

1277 (3) For leased machinery or equipment that did not qualify for an exemption at the date
 1278 of lease inception and subsequently qualifies for the exemption under this Code section,
 1279 the exemption shall apply to all lease payments made subsequent to such qualification;

1280 (4) Miscellaneous spare parts for which the ultimate use of the spare parts is unknown
 1281 at the time of purchase are eligible for the exemption as repair or replacement parts.
 1282 However, use tax must be accrued and remitted if spare parts are withdrawn from the
 1283 inventory of spare parts and used for any purpose other than to maintain, repair, restore,
 1284 install, or upgrade machinery or equipment that is necessary and integral to the
 1285 manufacture of tangible personal property; and

1286 (5) Energy necessary and integral to the manufacture of tangible personal property
 1287 includes energy used to operate machinery or equipment, to create conditions necessary
 1288 for the manufacture of tangible personal property, or to perform an actual part of the
 1289 manufacture of tangible personal property; energy used in administrative or other
 1290 ancillary activities that are located and performed at the manufacturing plant so long as
 1291 such activities primarily benefit such manufacture of tangible personal property; energy
 1292 used in related operations that convey, transport, handle, or store raw materials or
 1293 finished goods at the manufacturing plant; energy used for heating, cooling, ventilation,
 1294 illumination, fire safety or prevention, and personal comfort and convenience of the

1295 manufacturer's employees at the manufacturing plant; and energy used for any other
1296 purpose at a manufacturing plant.

1297 (e) Examples that qualify as necessary and integral to the manufacture of tangible personal
1298 property include, but are not limited to:

1299 (1) Machinery or equipment used to convey or transport industrial materials, work in
1300 process, consumable supplies, or packaging materials at or among manufacturing plants
1301 or to convey and transport finished goods to a distribution or storage point at the
1302 manufacturing plant. Specific examples may include, but are not limited to, forklifts,
1303 conveyors, cranes, hoists, and pallet jacks;

1304 (2) Machinery or equipment used to gather, arrange, sort, mix, measure, blend, heat,
1305 cool, clean, or otherwise treat, prepare, or store industrial materials for further
1306 manufacturing;

1307 (3) Machinery or equipment used to control, regulate, heat, cool, or produce energy for
1308 other machinery or equipment that is necessary and integral to the manufacture of
1309 tangible personal property. Specific examples may include, but are not limited to,
1310 boilers, chillers, condensers, water towers, dehumidifiers, humidifiers, heat exchangers,
1311 generators, transformers, motor control centers, solar panels, air dryers, and air
1312 compressors;

1313 (4) Testing and quality control machinery or equipment located at a manufacturing plant
1314 used to test the quality of industrial materials, work in process, or finished goods;

1315 (5) Starters, switches, circuit breakers, transformers, wiring, piping, and other electrical
1316 components, including associated cable trays, conduit, and insulation, located between
1317 a motor control center and exempt machinery or equipment or between separate units of
1318 exempt machinery or equipment;

1319 (6) Machinery or equipment used to maintain, clean, or repair exempt machinery or
1320 equipment;

1321 (7) Machinery or equipment used to provide safety for the employees working at a
1322 manufacturing plant, including, but not limited to, safety machinery and equipment
1323 required by federal or state law, gloves, ear plugs, face masks, protective eyewear, hard
1324 hats or helmets, or breathing apparatuses, regardless of whether the items would
1325 otherwise be considered consumable supplies;

1326 (8) Machinery or equipment used to condition air or water to produce conditions
1327 necessary for the manufacture of tangible personal property, including pollution control
1328 machinery or equipment and water treatment systems;

1329 (9) Pollution control, sanitizing, sterilizing, or recycling machinery or equipment;

1330 (10) Industrial materials bought for further processing in the manufacture of tangible
1331 personal property for sale or further processing or any part of the industrial material or

1332 by-product thereof which becomes a wasteful product contributing to pollution problems
 1333 and which is used up in a recycling or burning process;
 1334 (11) Machinery or equipment used in quarrying and mining activities, including blasting,
 1335 extraction, and crushing; and
 1336 (12) Energy used at a manufacturing plant."

1337 SECTION 5-3.

1338 Said title is further amended by adding a new Code section to read as follows:

1339 "48-8-3.3.

1340 (a) As used in this Code section, the term:

1341 (1)(A) 'Agricultural machinery and equipment' means machinery and equipment used
 1342 in the production of agricultural products, including, but not limited to, machinery and
 1343 equipment used in the production of poultry and eggs for sale, including, but not limited
 1344 to, equipment used in the cleaning or maintenance of poultry houses and the
 1345 surrounding premises; in hatching and breeding of poultry and the breeding of livestock
 1346 and equine; in production, processing, and storage of fluid milk for sale; in drying,
 1347 ripening, cooking, further processing, or storage of agricultural products, including, but
 1348 not limited to, orchard crops; in production of livestock and equine for sale; by a
 1349 producer of poultry, eggs, fluid milk, equine, or livestock for sale; for the purpose of
 1350 harvesting agricultural products to be used on the farm by that producer as feed for
 1351 poultry, equine, or livestock; directly in tilling the soil or in animal husbandry when the
 1352 machinery is incorporated for the first time or as additional machinery for the first time
 1353 into a new or an existing farm unit engaged in tilling the soil or in animal husbandry in
 1354 this state; directly in tilling the soil or in animal husbandry when the machinery is
 1355 bought to replace machinery in an existing farm unit already engaged in tilling the soil
 1356 or in animal husbandry in this state; machinery and equipment used exclusively for
 1357 irrigation of agricultural products, including, but not limited to, fruit, vegetable, and nut
 1358 crops; and machinery and equipment used to cool agricultural products in storage
 1359 facilities.

1360 (B) 'Agricultural machinery and equipment' also means farm tractors and attachments
 1361 to the tractors; off-road vehicles used primarily in the production of nursery and
 1362 horticultural crops; self-propelled fertilizer or chemical application equipment sold to
 1363 persons engaged primarily in producing agricultural products for sale and which are
 1364 used exclusively in tilling, planting, cultivating, and harvesting agricultural products,
 1365 including, but not limited to, growing, harvesting, or processing onions, peaches,
 1366 blackberries, blueberries, or other orchard crops, nursery, and other horticultural crops;
 1367 devices and containers used in the transport and shipment of agricultural products;

1368 aircraft exclusively used for spraying agricultural crops; pecan sprayers, pecan shakers,
 1369 and other equipment used in harvesting pecans sold to persons engaged in the growing,
 1370 harvesting, and production of pecans; and off-road equipment and related attachments
 1371 which are sold to or used by persons engaged primarily in the growing or harvesting of
 1372 timber and which are used exclusively in site preparation, planting, cultivating, or
 1373 harvesting timber. Equipment used in harvesting shall include all off-road equipment
 1374 and related attachments used in every forestry procedure starting with the severing of
 1375 a tree from the ground until and including the point at which the tree or its parts in any
 1376 form has been loaded in the field in or on a truck or other vehicle for transport to the
 1377 place of use. Such off-road equipment shall include, but not be limited to, skidders,
 1378 feller bunchers, debarkers, delimiters, chip harvesters, tub-grinders, woods cutters,
 1379 chippers of all types, loaders of all types, dozers, mid-motor graders, and the related
 1380 attachments; grain bins and attachments to grain bins; any repair, replacement, or
 1381 component parts installed on agricultural machinery and equipment; trailers used to
 1382 transport agricultural products; all-terrain vehicles and multipassenger rough-terrain
 1383 vehicles; and any other off-road vehicles used directly and principally in the production
 1384 of agricultural or horticultural products.

1385 (2) 'Agricultural operations' or 'agricultural products' means raising, growing, harvesting,
 1386 or storing of crops; feeding, breeding, or managing livestock, equine, or poultry;
 1387 producing or storing feed for use in the production of livestock, including, but not limited
 1388 to, cattle, calves, swine, hogs, goats, sheep, equine, and rabbits, or for use in the
 1389 production of poultry, including, but not limited to, chickens, hens, ratites, and turkeys;
 1390 producing plants, trees, Christmas trees, fowl, equine, or animals; or the production of
 1391 aquacultural, horticultural, viticultural, silvicultural, grass sod, dairy, livestock, poultry,
 1392 egg, and apiarian products. Agricultural products are considered grown in this state if
 1393 such products are grown, produced, or processed in this state, whether or not such
 1394 products are composed of constituent products grown or produced outside this state.

1395 (3) 'Agricultural production inputs' means seed; seedlings; plants grown from seed,
 1396 cuttings, or liners; fertilizers; insecticides; livestock and poultry feeds, drugs, and
 1397 instruments used for the administration of such drugs; fencing products and materials
 1398 used to produce agricultural products; fungicides; rodenticides; herbicides; defoliant;
 1399 soil fumigants; plant growth regulating chemicals; desiccants, including, but not limited
 1400 to, shavings and sawdust from wood, peanut hulls, fuller's earth, straw, and hay; feed for
 1401 animals, including, but not limited to, livestock, fish, equine, hogs, or poultry; sugar used
 1402 as food for honeybees kept for the commercial production of honey, beeswax, and
 1403 honeybees; cattle, hogs, sheep, equine, poultry, or bees when sold for breeding purposes;
 1404 ice or other refrigerants, including, but not limited to, nitrogen, carbon dioxide, ammonia,

1405 and propylene glycol used in the processing for market or the chilling of agricultural
 1406 products in storage facilities, rooms, compartments, or delivery trucks; materials,
 1407 containers, crates, boxes, labels, sacks, bags, or bottles used for packaging agricultural
 1408 products when the product is either sold in the containers, sacks, bags, or bottles directly
 1409 to the consumer or when such use is incidental to the sale of the product for resale; and
 1410 containers, plastic, canvas, and other fabrics used in the care and raising of agricultural
 1411 products or canvas used in covering feed bins, silos, greenhouses, and other similar
 1412 storage structures.

1413 (4) 'Energy used in agriculture' means fuels used for agricultural purposes, including, but
 1414 not limited to, off-road diesel, propane, butane, electricity, natural gas, wood, wood
 1415 products, or wood by-products; liquefied petroleum gas or other fuel used in structures
 1416 in which broilers, pullets, or other poultry are raised, in which swine are raised, in which
 1417 dairy animals are raised or milked or where dairy products are stored on a farm, in which
 1418 agricultural products are stored, and in which plants, seedlings, nursery stock, or floral
 1419 products are raised primarily for the purposes of making sales of such plants, seedlings,
 1420 nursery stock, or floral products for resale; electricity or other fuel for the operation of
 1421 an irrigation system which is used on a farm exclusively for the irrigation of agricultural
 1422 products; and electricity or other fuel used in the drying, cooking, or further processing
 1423 of raw agricultural products, including, but not limited to, food processing of raw
 1424 agricultural products.

1425 (5) 'Qualified agriculture producer' includes producers of agricultural products who meet
 1426 one of the following criteria:

1427 (A) The person or entity is the owner or lessee of agricultural land or other real
 1428 property from which \$2,500.00 or more of agricultural products were produced and
 1429 sold during the year, including payments from government sources;

1430 (B) The person or entity is in the business of providing for-hire custom agricultural
 1431 services, including, but not limited to, plowing, planting, harvesting, growing, animal
 1432 husbandry or the maintenance of livestock, raising or substantially modifying
 1433 agricultural products, or the maintenance of agricultural land from which \$2,500.00 or
 1434 more of such services were provided during the year;

1435 (C) The person or entity is the owner of land that qualifies for taxation under the
 1436 qualifications of bona fide conservation use property as defined in Code Section
 1437 48-5-7.4 or qualifies for taxation under the provisions of the Georgia Forest Land
 1438 Protection Act as defined in Code Section 48-5-7.7;

1439 (D) The person or entity is in the business of producing long-term agricultural products
 1440 from which there might not be annual income, including, but not limited to, timber,
 1441 pulpwood, orchard crops, pecans, and horticultural or other multiyear agricultural or

1442 farm products. Applicants must demonstrate that sufficient volumes of such long-term
 1443 agricultural products will be produced which have the capacity to generate at least
 1444 \$2,500.00 in sales annually in the future; or

1445 (E) The person or entity must establish, to the satisfaction of the Commissioner of
 1446 Agriculture, that the person or entity is actively engaged in the production of
 1447 agricultural products and has or will have created sufficient volumes to generate at least
 1448 \$2,500.00 in sales annually.

1449 (b) The sales and use taxes levied or imposed by this article shall not apply to sales to, or
 1450 use by, a qualified agriculture producer of agricultural production inputs, energy used in
 1451 agriculture, and agricultural machinery and equipment.

1452 (c) The Commissioner of Agriculture, at his or her discretion, may use one or both of the
 1453 following criteria as a tool to determine eligibility under this Code section:

1454 (1) Business activity on IRS schedule F (Profit or Loss from Farming); or

1455 (2) Farm rental activity on IRS form 4835 (Farm Rental Income and Expenses) or
 1456 schedule E (Supplemental Income and Loss).

1457 (d) Qualified agricultural producers that meet the criteria provided for in paragraph (5) of
 1458 subsection (a) of this Code section must apply to the Commissioner of Agriculture to
 1459 request an agricultural sales and use tax exemption certificate that contains an exemption
 1460 number. To facilitate the use of the exemption certificate, a wallet-sized card containing
 1461 that same information shall also be issued by the Commissioner of Agriculture.

1462 (e) The Commissioner of Agriculture is authorized to promulgate rules and regulations
 1463 governing the issuance of agricultural exemption certificates and the administration of this
 1464 Code section. The Commissioner of Agriculture is authorized to establish an oversight
 1465 board and direct staff and is authorized to charge annual fees of not less than \$15.00 nor
 1466 more than \$25.00 per year in accordance with Code Section 2-1-5, but in no event shall the
 1467 total amount of the proceeds from such fees exceed the cost of administering this Code
 1468 section."

1469 **SECTION 5-4.**

1470 Said title is further amended by adding a new article at the end of Chapter 13, relating to
 1471 specific, business, and occupation taxes, to read as follows:

1472 "ARTICLE 6

1473 48-13-110.

1474 As used in this article, the term:

1475 (1) 'Dealer' has the same meaning as in Code Section 48-8-2.

- 1476 (2) 'Energy' has the same meaning as in Code Section 48-8-3.2.
- 1477 (3) 'Local sales and use tax' means any of the following:
- 1478 (A) The county special purpose local option sales and use tax under Part 1 of Article
 1479 3 of Chapter 8 of this title;
- 1480 (B) The joint county and municipal sales and use tax under Article 2 of Chapter 8 of
 1481 this title;
- 1482 (C) The homestead option sales and use tax under Article 2A of Chapter 8 of this title;
- 1483 (D) The tax levied for purposes of a metropolitan area system of public transportation,
 1484 as authorized by the amendment to the Constitution set out at Ga. L. 1964, p. 1008; the
 1485 continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the
 1486 Constitution; and the laws enacted pursuant to such constitutional amendment; or
- 1487 (E) The water and sewer projects and costs tax pursuant to Article 4 of Chapter 8 of
 1488 this title.
- 1489 (4) 'Purchaser' means any person who purchases energy and who would have been liable
 1490 for sales and use tax on such energy but for the exemption provided for in Code Section
 1491 48-8-3.2.
- 1492 48-13-111.
- 1493 Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the
 1494 Constitution, there are created within this state 159 special districts. One such district shall
 1495 exist within the geographical boundaries of each county, and the territory of each district
 1496 shall include all of the territory within the county except territory located within the
 1497 boundaries of any municipality that imposes an excise tax on energy under this article.
- 1498 48-13-112.
- 1499 (a)(1) Within the territorial limits of the special district located within the county, each
 1500 county in this state may levy and collect an excise tax upon the sale or use of energy
 1501 when such sale or use would have constituted a taxable event for purposes of sales and
 1502 use tax under Article 1 of Chapter 8 of this title but for the exemption in Code Section
 1503 48-8-3.2.
- 1504 (2) The governing authority of each municipality in this state may, subject to the
 1505 conditions of Code Section 48-13-115, levy and collect an excise tax upon the sale or use
 1506 of energy when such sale or use would have constituted a taxable event for purposes of
 1507 sales and use tax under Article 1 of Chapter 8 of this title but for the exemption in Code
 1508 Section 48-8-3.2.
- 1509 (3) The excise tax levied pursuant to this article shall be phased in over a four-year
 1510 period as follows:

1511 (A) For the period commencing January 1, 2013, and concluding at the last moment
1512 of December 31, 2013, such excise tax shall be at a rate equivalent to 25 percent of the
1513 total amount of local sales and use tax in effect in such special district that would be
1514 collected on the sale, use, storage, or consumption of energy but for the exemption in
1515 Code Section 48-8-3.2;

1516 (B) For the period commencing January 1, 2014, and concluding at the last moment
1517 of December 31, 2014, such excise tax shall be at a rate equivalent to 50 percent of the
1518 total amount of local sales and use tax in effect in such special district that would be
1519 collected on the sale, use, storage, or consumption of energy but for the exemption in
1520 Code Section 48-8-3.2;

1521 (C) For the period commencing January 1, 2015, and concluding at the last moment
1522 of December 31, 2015, such excise tax shall be at a rate equivalent to 75 percent of the
1523 total amount of local sales and use tax in effect in such special district that would be
1524 collected on the sale, use, storage, or consumption of energy but for the exemption in
1525 Code Section 48-8-3.2; and

1526 (D) On or after January 1, 2016, such excise tax shall be at a rate equivalent to 100
1527 percent of the total amount of local sales and use tax in effect in such special district
1528 that would be collected on the sale, use, storage, or consumption of energy but for the
1529 exemption in Code Section 48-8-3.2.

1530 (b) Any county or municipality which imposes the excise tax under this article during the
1531 phase-in period provided for in this Code section shall levy such excise tax at the amount
1532 provided for under the applicable year of the phase in. Any county or municipality which
1533 imposes such excise tax on or after January 1, 2016, shall impose it at the rate specified
1534 under subparagraph (a)(3)(D) of this Code section.

1535 (c) The excise tax levied pursuant to this article shall be imposed only at the time that sales
1536 and use tax on the sale or use of such energy would have been due and payable under Code
1537 Section 48-8-30 but for the exemption in Code Section 48-8-3.2. The excise tax shall be
1538 due and payable in the same manner as would be otherwise required under Article 1 of
1539 Chapter 8 of this title except as otherwise provided under this article. The excise tax shall
1540 be a debt of the purchaser of energy until it is paid and shall be recoverable at law in the
1541 same manner as authorized for the recovery of other debts. The dealer collecting the excise
1542 tax shall remit the excise tax to the governing authority imposing the excise tax. Every
1543 dealer subject to an excise tax levied as provided in this article shall be liable for the excise
1544 tax at the applicable rate on the charges actually collected or the amount of excise taxes
1545 collected from the purchasers, whichever is greater.

1546 (d) A county or municipality levying an excise tax as provided in this subsection shall only
1547 levy such excise tax initially by ordinance and at the equivalent rate as determined under

1548 paragraph (3) of subsection (a) of this Code section. Following such initial imposition, on
 1549 or after January 1, 2016, the rate of the tax under this article shall be controlled by the
 1550 maximum amount of local sales and use tax in effect in the special district, but in no event
 1551 more than 2 percent; however, this 2 percent limitation shall not apply in a municipality
 1552 that levies a water and sewer projects and costs tax pursuant to Article 4 of Chapter 8 of
 1553 this title, in which case there shall be a 3 percent limitation. In the event the total rate of
 1554 local sales and use taxes in effect in the special district decreases from 2 percent to 1
 1555 percent, the rate of the excise tax under this article shall likewise be reduced at the same
 1556 time such local sales and use tax rate reduction becomes effective. In the event the total
 1557 rate of local sales and use taxes in effect in the special district increases from 1 percent to
 1558 2 percent, the rate of the excise tax under this article shall likewise be increased at the same
 1559 time such local sales and use tax rate increase becomes effective.

1560 (e) An excise tax under this article shall not be levied or collected by a county or
 1561 municipality outside the territorial limits of the special district located within the county.

1562 48-13-113.

1563 Prior to the adoption of the ordinance levying an excise tax under this article, the county
 1564 governing authority within a special district shall meet and confer with each of the
 1565 municipalities within the special district. Any county that desires to have an excise tax
 1566 under this article levied within the special district shall deliver or mail a written notice to
 1567 the mayor or chief elected official in each municipality located within the special district.
 1568 If the governing authority of such county does not deliver or mail such notice within 30
 1569 days of the date of the written request of the mayor or chief elected official of a
 1570 municipality within the special district, then such mayor or chief elected official shall
 1571 deliver or mail a written notice to the mayor or chief elected official in each municipality
 1572 located within the special district and to the county governing authority. Such notice shall
 1573 contain the date, time, place, and purpose of a meeting at which the governing authorities
 1574 of the county and of each municipality are to discuss whether or not the excise tax should
 1575 levied be within the special district. The notice shall be delivered or mailed at least ten
 1576 days prior to the date of the meeting. The meeting shall be held at least 30 days prior to
 1577 the adoption of any ordinance levying an excise tax under this article.

1578 48-13-114.

1579 (a)(1) Following the meeting required under Code Section 48-13-113, the governing
 1580 authority of the county within the special district shall enter into an intergovernmental
 1581 agreement with the governing authority of each municipality wishing to participate in
 1582 such excise tax that provides for the distribution of the proceeds as provided in subsection

1583 (c) of this Code section. Following the execution of such agreement, the governing
1584 authority of such county shall be authorized to adopt an ordinance levying the excise tax.
1585 (2) If a municipality elects not to participate in such excise tax by not signing such
1586 agreement, then such municipality shall not receive any proceeds from the excise tax. In
1587 such event, any proportionate share that would have been distributed to such municipality
1588 under an applicable local sales and use tax as provided in subsection (c) of this Code
1589 section shall instead be distributed to the general fund of the county.

1590 (b) The excise tax proceeds shall be allocated and distributed by the county governing
1591 authority at the end of each calendar month. Of such excise tax proceeds, an amount equal
1592 to 1 percent of the proceeds collected by the county shall be paid into the general fund of
1593 the county to defray the costs of collection and administration. The remainder of the
1594 proceeds shall be distributed in accordance with the intergovernmental agreement as
1595 provided in subsection (c) of this Code section.

1596 (c) The excise tax proceeds shall be allocated and distributed by the county governing
1597 authority within 30 days following the end of each calendar month in the manner provided
1598 in this subsection. Such proceeds shall not be subject to any use or expenditure
1599 requirements provided for under any of the local sales and use taxes but shall be authorized
1600 to be expended in the same manner as otherwise would have been required under such local
1601 sales and use taxes or may be expended for any lawful purpose. Of such excise tax
1602 proceeds:

1603 (1) If two such local sales and use taxes are in effect in the special district, an amount
1604 equal to one-half of the proceeds of the excise tax shall be distributed to the county
1605 general fund and the general fund of each participating municipality located in such
1606 county according to the same proportionate share as specified under the distribution
1607 provisions of the first local sales and use tax and an amount equal to one-half of the
1608 proceeds of the excise tax shall be distributed to the county general fund and the general
1609 fund of each participating municipality located in such county according to the same
1610 proportionate share as specified under the distribution provisions of the second local sales
1611 and use tax; or

1612 (2) If only one such local sales and use tax is in effect in the special district, then the
1613 proceeds of the excise tax shall be distributed to the county general fund and the general
1614 fund of each participating municipality located in such county according to the same
1615 proportionate share as specified under the distribution provisions of the local sales and
1616 use tax.

1617 48-13-115.

1618 Following the meeting required under Code Section 48-13-113, if the governing authority
 1619 of the county within the special district refuses to enter into an intergovernmental
 1620 agreement with the governing authority of each municipality wishing to participate in such
 1621 excise tax during the period commencing on January 1, 2013, and concluding on December
 1622 31, 2013, then the governing authority of each municipality wishing to levy the excise tax
 1623 shall be authorized to adopt an ordinance levying the excise tax within the corporate limits
 1624 of such municipality. If a county elects not to participate in such excise tax by not signing
 1625 such agreement, then the county shall not receive any proceeds from the excise tax. The
 1626 proceeds of such excise tax shall be deposited in the general fund of each municipality. If
 1627 a county determines, subsequent to December 31, 2013, to commence proceedings for the
 1628 imposition of the excise tax under this article, then proceedings for such imposition shall
 1629 commence in the same manner as otherwise provided under Code Section 48-13-113. In
 1630 that event, the excise tax levied by such municipality shall cease on the day immediately
 1631 prior to the day the new tax levied by the county commences. If such municipality elects
 1632 not to participate, its current excise tax under this article shall still terminate on the date
 1633 specified in this Code section and it shall not receive any proceeds under the county levy.

1634 48-13-116.

1635 (a)(1) An excise tax imposed under this article shall become effective on the first day of
 1636 the next succeeding calendar quarter which begins more than 80 days after the adoption
 1637 date of the ordinance.

1638 (2) If services are regularly billed on a monthly basis, however, the excise tax shall
 1639 become effective with respect to and the tax shall apply to services billed on or after the
 1640 effective date specified in paragraph (1) of this subsection.

1641 (b) The excise tax shall cease to be imposed on the first day of the next succeeding
 1642 calendar quarter which begins more than 80 days after the adoption date of an ordinance
 1643 terminating the excise tax.

1644 (c) At any time no more than a single 2 percent excise tax under this article may be
 1645 imposed within a special district or a municipality.

1646 (d) Following the termination of an excise tax under this article, the governing authority
 1647 of a county within a special district or the mayor or chief elected official of a municipality
 1648 in the special district in which an excise tax authorized by this article is in effect may
 1649 initiate proceedings for the reimposition of a tax under this article in the same manner as
 1650 provided in this article for initial imposition of such tax.

1651 48-13-117.

1652 The manner of payment and collection of the excise tax and all other procedures related to
 1653 the tax, including, but not limited to, periodic auditing of dealers collecting and remitting
 1654 the excise tax under this article, shall be as provided by each county and municipality
 1655 electing to exercise the powers conferred by this article.

1656 48-13-118.

1657 As a part of the audit report required under Code Section 36-81-7, the auditor shall include,
 1658 in a separate schedule, a report of the revenues pertaining to the excise tax under this
 1659 article."

1660 **SECTION 5-5.**

1661 Said title is further amended by revising paragraphs (90) and (91) and enacting a new
 1662 paragraph in Code Section 48-8-3, relating to exemptions from sales and use tax, as follows:

1663 "(90) The sale of electricity to a manufacturer located in this state used directly in the
 1664 manufacture of a product if the direct cost of such electricity exceeds 50 percent of the
 1665 cost of all materials, including electricity, used directly in the product; ~~or~~

1666 (91) The sale of prewritten software which has been delivered to the purchaser
 1667 electronically or by means of load and leave; or

1668 (92)(A) For the period commencing January 1, 2012, until June 30, 2014, sales of
 1669 tangible personal property used for and in the construction of a competitive project of
 1670 regional significance.

1671 (B) The exemption provided in subparagraph (A) of this paragraph shall apply to
 1672 purchases made during the entire time of construction of the competitive project of
 1673 regional significance so long as such project meets the definition of a 'competitive
 1674 project of regional significance' within the period commencing January 1, 2012, until
 1675 June 30, 2014.

1676 (C) The department shall not be required to pay interest on any refund claims filed for
 1677 local sales and use taxes paid on purchases made prior to the implementation of this
 1678 paragraph.

1679 (D) As used in this paragraph, the term 'competitive project of regional significance'
 1680 means the location or expansion of some or all of a business enterprise's operations in
 1681 this state where the commissioner of economic development determines that the project
 1682 would have a significant regional impact. The commissioner of economic development
 1683 shall promulgate regulations in accordance with the provisions of this paragraph
 1684 outlining the guidelines to be applied in making such determination."

SECTION 5-6.

1685
1686 Said title is further amended by revising paragraph (33.1) of Code Section 48-8-3, relating
1687 to exemptions from sales and use taxes, as follows:

1688 “(33.1)(A) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport,
1689 to the extent provided in subparagraphs (B) and (C) of this paragraph.

1690 (B)(i) For the period of time beginning July 1, 2011, and ending June 30, 2012, the
1691 sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall be
1692 exempt from state sales and use tax until the aggregate state sales and use tax liability
1693 of the taxpayer during such period with respect to jet fuel exceeds \$20 million,
1694 computed as if the exemption provided in this division was not in effect during such
1695 period. Thereafter during such period, the exemption provided by this division shall
1696 not apply to the sale or use of jet fuel to or by the qualifying airline. For purposes of
1697 this division, the terms 'qualifying airline' and 'qualifying airport' shall have the same
1698 meanings as those terms were defined under the prior provisions of this paragraph as
1699 it existed immediately prior to July 1, 2012.

1700 (ii) For the period of time beginning July 1, 2012, ~~and ending June 30, 2013~~, the sale
1701 or use of jet fuel to or by a qualifying airline at a qualifying airport shall be exempt
1702 from 1 percent of the 4 percent state sales and use tax ~~until the aggregate state sales~~
1703 ~~and use tax liability of the taxpayer during such period with respect to jet fuel exceeds~~
1704 ~~\$10 million, computed as if the exemption provided in this division was not in effect~~
1705 ~~during such period. Thereafter during such period, the sale or use of jet fuel to or by~~
1706 ~~the qualifying airline shall be subject to state sales and use tax.~~

1707 ~~(iii) The exemptions provided in divisions (i) and (ii) of this subparagraph shall not~~
1708 ~~apply to any purchases of jet fuel occurring on or after July 1, 2013.~~

1709 (C) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall
1710 be exempt at all times from the sales or use tax levied and imposed as authorized
1711 pursuant to Part 1 of Article 3 of this chapter. For purposes of this subparagraph, a
1712 'qualifying airport' shall mean any airport in the state that has had more than 750,000
1713 takeoffs and landings during a calendar year; and a 'qualifying airline,' in addition to the
1714 requirements of subparagraph (E) of this paragraph, shall mean, for the 12 month period
1715 immediately preceding the applicable period specified in division (i) of subparagraph
1716 (B) of this paragraph had, or would have had in the absence of any exemption during
1717 such 12 month period, state sales and use tax liability on jet fuel of more than \$15
1718 million.

1719 (D) Except as provided for in subparagraph (C) of this paragraph, this exemption shall
1720 not apply to any other local sales and use tax levied or imposed at ~~anytime~~ any time in
1721 any area consisting of less than the entire state, however authorized, including, but not

1722 limited to, such taxes authorized by or pursuant to Section 25 of an Act approved
 1723 March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid
 1724 Transit Authority Act of 1965,' or such taxes as authorized by or pursuant to Part 2 of
 1725 Article 3 or Article 2, 2A, or 4 of this chapter.

1726 (E) For purposes of ~~this paragraph~~ division (ii) of subparagraph (B) of this paragraph
 1727 and paragraph (2) of subsection (d) of Code Section 48-8-241, a 'qualifying airline' shall
 1728 mean any person which: ~~(i) Is~~ is authorized by the Federal Aviation Administration or
 1729 appropriate agency of the United States to operate as an air carrier under an air carrier
 1730 operating certificate and which provides regularly scheduled flights for the
 1731 transportation of passengers or cargo for hire; ~~and.~~

1732 ~~(ii) For the 12-month period immediately preceding the applicable period specified~~
 1733 ~~in division (i) or (ii) of subparagraph (B) of this paragraph had, or would have had in~~
 1734 ~~the absence of any exemption during such 12-month period, state sales and use tax~~
 1735 ~~liability on jet fuel of more than \$15 million.~~

1736 (F) For purposes of ~~this paragraph and paragraph (2) of subsection (d) of Code Section~~
 1737 ~~48-8-241, a 'qualifying airport' shall mean any airport in the state that has had more than~~
 1738 ~~750,000 takeoffs and landings during a calendar year. For purposes of division (ii) of~~
 1739 ~~subparagraph (B) of this paragraph and paragraph (2) of subsection (d) of Code Section~~
 1740 ~~48-8-241, the term 'qualifying airport' means a certificated air carrier airport in Georgia.~~

1741 (G) The commissioner shall adopt rules and regulations to carry out the provisions of
 1742 this paragraph;:"

1743 SECTION 5-7.

1744 Title 2 of the Official Code of Georgia Annotated, relating to agriculture, is amended by
 1745 revising Code Section 2-1-5, relating to certain agricultural annual license fees, as follows:
 1746 "2-1-5.

1747 (a) An individual conducting business as a grain dealer, commercial feed dealer, and grain
 1748 warehouseman shall pay an annual license fee in an amount not less than \$1,500.00 nor
 1749 more than \$3,000.00. Any fees collected pursuant to this Code section shall be retained
 1750 pursuant to the provisions of Code Section 45-12-92.1.

1751 (b) A qualified agriculture producer, as defined in Code Section 48-8-3.3, shall pay an
 1752 annual license fee in an amount not less than \$15.00 nor more than \$25.00, but in no event
 1753 shall the total amount of the proceeds from such fees exceed the cost of administering Code
 1754 Section 48-8-3.3."

1755 **PART VI**

1756 **SECTION 6-1.**

1757 Part 1 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
1758 relating to sales and use taxes, is amended by revising paragraph (8) of Code Section 48-8-2,
1759 relating to definitions regarding the state sales and use tax, as follows:

1760 "(8) 'Dealer' means every person who:

1761 (A) Has sold at retail, used, consumed, distributed, or stored for use or consumption
1762 in this state tangible personal property and who cannot prove that the tax levied by this
1763 article has been paid on the sale at retail or on the use, consumption, distribution, or
1764 storage of the tangible personal property;

1765 (B) Imports or causes to be imported tangible personal property from any state or
1766 foreign country for sale at retail, or for use, consumption, distribution, or storage for use
1767 or consumption in this state;

1768 (C) Is the lessee or renter of tangible personal property and who pays to the owner of
1769 the property a consideration for the use or possession of the property in this state
1770 without acquiring title to the property;

1771 (D) Leases or rents tangible personal property for a consideration, permitting the use
1772 or possession of the property in this state without transferring title to the property;

1773 (E) Maintains or ~~has~~ utilizes within this state, ~~indirectly or by a subsidiary,~~ an office,
1774 distribution center, salesroom or sales office, warehouse, service enterprise, or any
1775 other place of business, whether owned by such person or any other person, other than
1776 a common carrier acting in its capacity as such;

1777 (F) Manufactures or produces tangible personal property for sale at retail or for use,
1778 consumption, distribution, or storage for use or consumption in this state;

1779 (G) Sells at retail, offers for sale at retail, or has in his possession for sale at retail, or
1780 for use, consumption, distribution, or storage for use or consumption in this state
1781 tangible personal property;

1782 (H) Solicits business by an agent, employee, representative, or any other person;

1783 (I) Engages in the regular or systematic solicitation of a consumer market in this state,
1784 unless the dealer's only activity in this state is:

1785 (i) Advertising or solicitation by:

1786 (I) Direct mail, catalogs, periodicals, or advertising fliers;

1787 (II) Means of print, radio, or television media; or

1788 (III) Telephone, computer, the Internet, cable, microwave, or other communication
1789 system; ~~or~~

1790 (ii) The delivery of tangible personal property within this state solely by common
1791 carrier or United States mail; or

1792 (iii) To engage in convention and trade show activities as described in Section
 1793 513(d)(3)(A) of the Internal Revenue Code, so long as such activities are the dealer's
 1794 sole physical presence in this state and the dealer, including any of its representatives,
 1795 agents, salespersons, canvassers, independent contractors, or solicitors, does not
 1796 engage in those convention and trade show activities for more than five days, in
 1797 whole or in part, in this state during any 12 month period and did not derive more than
 1798 \$100,000.00 of net income from those activities in this state during the prior calendar
 1799 year. A retailer engaging in convention and trade show activities, as described in
 1800 Section 513(d)(3)(A) of the Internal Revenue Code, is a retailer engaged in business
 1801 in this state and liable for collection of the applicable sales or use tax with respect to
 1802 any sale of tangible personal property occurring at the convention and trade show
 1803 activities and with respect to any sale of tangible personal property made pursuant to
 1804 an order taken at or during those convention and trade show activities.

1805 The exceptions provided in divisions ~~(i)~~ and ~~(ii)~~ (i), (ii), and (iii) of this subparagraph
 1806 shall not apply to any requirements under Code Section 48-8-14;

1807 (J) Is an affiliate that sells at retail, offers for sale at retail in this state, or engages in
 1808 the regular or systematic solicitation of a consumer market in this state through a
 1809 related dealer located in this state unless:

1810 (i) The in-state dealer to which the affiliate is related does not engage in any of the
 1811 following activities on behalf of the affiliate:

1812 (I) Advertising;

1813 (II) Marketing;

1814 (III) Sales; or

1815 (IV) Other services; and

1816 (ii) The in-state dealer to which the affiliate is related accepts the return of tangible
 1817 personal property sold by the affiliate and also accepts the return of tangible personal
 1818 property sold by any person or dealer that is not an affiliate on the same terms and
 1819 conditions as an affiliate's return;

1820 As used in this subparagraph, the term 'affiliate' means any person that is related
 1821 directly or indirectly through one or more intermediaries, controls, is controlled by, is
 1822 under common control with, or is subject to the control of a dealer described in
 1823 subparagraphs (A) through (I) of this paragraph or in this subparagraph;

1824 (K)(i) Makes sales of tangible personal property or services that are taxable under
 1825 this chapter if a related member, as defined in Code Section 48-7-28.3, other than a
 1826 common carrier acting in its capacity as such, that has substantial nexus in this state:

1827 (I) Sells a similar line of products as the person and does so under the same or a
 1828 similar business name; or

1829 (II) Uses trademarks, service marks, or trade names in this state that are the same
1830 or substantially similar to those used by the person.

1831 (ii) The presumption that a person described in this subparagraph qualifies as a dealer
1832 in this state may be rebutted by showing that the person does not have a physical
1833 presence in this state and that any in-state activities conducted on its behalf are not
1834 significantly associated with the person's ability to establish and maintain a market
1835 in this state;

1836 (L)(i) Makes sales of tangible personal property or services that are taxable under this
1837 chapter if any other person, other than a common carrier acting in its capacity as such,
1838 who has a substantial nexus in this state:

1839 (I) Delivers, installs, assembles, or performs maintenance services for the person's
1840 customers within this state;

1841 (II) Facilitates the person's delivery of property to customers in this state by
1842 allowing the person's customers to pick up property sold by the person at an office,
1843 distribution facility, warehouse, storage place, or similar place of business
1844 maintained by the person in this state; or

1845 (III) Conducts any other activities in this state that are significantly associated with
1846 the person's ability to establish and maintain a market in this state for the person's
1847 sales.

1848 (ii) The presumption that a person described in this subparagraph qualifies as a dealer
1849 in this state may be rebutted by showing that the person does not have a physical
1850 presence in this state and that any in-state activities conducted on its behalf are not
1851 significantly associated with the person's ability to establish and maintain a market
1852 in this state;

1853 (M)(i) Enters into an agreement with one or more other persons who are residents of
1854 this state under which the resident, for a commission or other consideration, based on
1855 completed sales, directly or indirectly refers potential customers, whether by a link
1856 on an Internet website, an in-person oral presentation, telemarketing, or otherwise, to
1857 the person, if the cumulative gross receipts from sales by the person to customers in
1858 this state who are referred to the person by all residents with this type of an agreement
1859 with the person is in excess of \$50,000.00 during the preceding 12 months.

1860 (ii) The presumption that a person described in this subparagraph is a dealer in this
1861 state may be rebutted by submitting proof that the residents with whom the person has
1862 an agreement did not engage in any activity within this state that was significantly
1863 associated with the person's ability to establish or maintain the person's market in the
1864 state during the preceding 12 months. Such proof may consist of sworn written
1865 statements from all of the residents with whom the person has an agreement stating

1866 that they did not engage in any solicitation in this state on behalf of the person during
 1867 the preceding year, provided that such statements were provided and obtained in good
 1868 faith. This subparagraph shall take effect 90 days after the effective date of this Act
 1869 and shall apply to sales made, uses occurring, and services rendered on or after the
 1870 effective date of this subparagraph without regard to the date the person and the
 1871 resident entered into the agreement described in this subparagraph;

1872 (N) Notwithstanding any of the provisions contained in this paragraph, with respect to
 1873 a person that is not a resident or domiciliary of Georgia, that does not engage in any
 1874 other business or activity in Georgia, and that has contracted with a commercial printer
 1875 for printing to be conducted in Georgia, such person shall not be deemed a 'dealer' in
 1876 Georgia merely because such person:

1877 (i) Owns tangible or intangible property which is located at the Georgia premises of
 1878 a commercial printer for use by such printer in performing services for the owner;

1879 (ii) Makes sales and distributions of printed material produced at and shipped or
 1880 distributed from the Georgia premises of the commercial printer;

1881 (iii) Performs activities of any kind at the Georgia premises of the commercial printer
 1882 which are directly related to the services provided by the commercial printer; or

1883 (iv) Has printing, including any printing related activities, and distribution related
 1884 activities performed by the commercial printer in Georgia for or on its behalf,

1885 nor shall such person, absent any contact with Georgia other than with or through the
 1886 use of the commercial printer or the use of the United States Postal Service or a
 1887 common carrier, have an obligation to collect sales or use tax from any of its customers
 1888 located in Georgia based upon the activities described in divisions (i) through (iv) of
 1889 this subparagraph. In no event described in this subparagraph shall such person be
 1890 considered to have a fixed place of business in Georgia at either the commercial
 1891 printer's premises or at any place where the commercial printer performs services on
 1892 behalf of that person;

1893 (O) Any ruling, agreement, or contract, whether written or oral and whether express
 1894 or implied, between a person and this state's executive branch or any other state agency
 1895 or department stating, agreeing, or ruling that such person is not a dealer required to
 1896 collect sales and use tax in this state despite the presence of a warehouse, distribution
 1897 center, or fulfillment center in this state that is owned or operated by the person or a
 1898 related member shall be null and void unless it is specifically approved by a majority
 1899 vote of each body of the General Assembly. For purposes of this subparagraph, the
 1900 term 'related member' has the same meaning as in Code Section 48-7-28.3;

1901 ~~(P)~~ Each dealer shall collect the tax imposed by this article from the purchaser,
 1902 lessee, or renter, as applicable, and no action seeking either legal or equitable relief on

1903 a sale, lease, rental, or other transaction may be had in this state by the dealer unless the
 1904 dealer has fully complied with this article; or
 1905 ~~(M)(Q)~~ The commissioner shall promulgate such rules and regulations necessary to
 1906 administer this paragraph, including other such information, applications, forms, or
 1907 statements as the commissioner may reasonably require."

1908 SECTION 6-2.

1909 Said part is further amended by revising paragraphs (75) and (82) of Code Section 48-8-3,
 1910 relating to exemptions from sales and use taxes, as follows:

1911 "(75)(A) The sale of any covered item. The exemption provided by this paragraph
 1912 shall apply only to sales occurring during ~~a period commencing~~ periods:

1913 (i) Commencing at 12:01 A.M. on ~~July 30, 2009~~ August 10, 2012, and concluding
 1914 at 12:00 Midnight on ~~August 2, 2009~~ August 11, 2012; and

1915 (ii) Commencing at 12:01 A.M. on August 9, 2013, and concluding at 12:00
 1916 Midnight on August 10, 2013.

1917 (B) As used in this paragraph, the term 'covered item' shall mean:

1918 (i) Articles of clothing and footwear with a sales price of \$100.00 or less per article
 1919 of clothing or pair of footwear, excluding accessories such as jewelry, handbags,
 1920 umbrellas, eyewear, watches, and watchbands;

1921 (ii) A single purchase, with a sales price ~~\$1,500.00~~ of \$1,000.00 or less, of personal
 1922 computers and personal computer related accessories purchased for noncommercial
 1923 home or personal use, including personal computer base units and keyboards,
 1924 personal digital assistants, handheld computers, monitors, other peripheral devices,
 1925 modems for Internet and network access, and nonrecreational software, whether or
 1926 not they are to be utilized in association with the personal computer base unit.
 1927 Computer and computer related accessories shall not include furniture and any
 1928 systems, devices, software, or peripherals designed or intended primarily for
 1929 recreational use; and

1930 (iii) Noncommercial purchases of general school supplies to be utilized in the
 1931 classroom or in classroom related activities, such as homework, up to a sales price of
 1932 \$20.00 per item including pens, pencils, notebooks, paper, book bags, calculators,
 1933 dictionaries, thesauruses, and children's books and books listed on approved school
 1934 reading lists for pre-kindergarten through twelfth grade.

1935 (C) The exemption provided by this paragraph shall not apply to rentals, sales in a
 1936 theme park, entertainment complex, public lodging establishment, restaurant, or airport
 1937 or to purchases for trade, business, or resale.

1938 (D) The commissioner shall promulgate any rules and regulations necessary to
 1939 implement and administer this paragraph including but not be limited to a list of those
 1940 articles and items qualifying for the exemption pursuant to this paragraph;”

1941 ”(82)(A) Purchase of energy efficient products or water efficient products with a sales
 1942 price of \$1,500.00 or less per product purchased for noncommercial home or personal
 1943 use. The exemption provided by this paragraph shall apply only to sales occurring
 1944 during ~~a period commencing~~ periods:

1945 (i) Commencing at 12:01 A.M. on ~~October 1, 2009~~ October 5, 2012, and concluding
 1946 at 12:00 Midnight on ~~October 4, 2009~~ October 7, 2012; and

1947 (ii) Commencing at 12:01 A.M. on October 4, 2013, and concluding at 12:00
 1948 Midnight on October 6, 2013.

1949 (B) As used in this paragraph, the term:

1950 (i) 'Energy efficient product' means any energy efficient product for noncommercial
 1951 home or personal use consisting of any dishwasher, clothes washer, air conditioner,
 1952 ceiling fan, fluorescent light bulb, dehumidifier, programmable thermostat,
 1953 refrigerator, door, or window which has been designated by the United States
 1954 Environmental Protection Agency and the United States Department of Energy as
 1955 meeting or exceeding each such agency's energy saving efficiency requirements or
 1956 which have been designated as meeting or exceeding such requirements under each
 1957 such agency's Energy Star program.

1958 (ii) 'Water efficient product' means any product used for the conservation or efficient
 1959 use of water which has been designated by the United States Environmental
 1960 Protection Agency as meeting or exceeding such agency's water saving efficiency
 1961 requirements or which has been designated as meeting or exceeding such
 1962 requirements under such agency's Water Sense program.

1963 (C) The exemption provided for in subparagraph (A) of this paragraph shall not apply
 1964 to purchases of energy efficient products or water efficient products purchased for
 1965 trade, business, or resale.

1966 (D) The commissioner shall promulgate any rules and regulations necessary to
 1967 implement and administer this paragraph;”

1968 **PART VII**

1969 **SECTION 7-1.**

1970 (a) This part, paragraph (4) of subsection (c) of Code Section 48-8-3.2 contained in Section
 1971 5-2, and Section 6-2 of this Act shall become effective upon approval by the Governor or
 1972 upon becoming law without such approval.

1973 (b) Section 5-5 of this Act shall become effective on January 1, 2012.

1974 (c) Section 6-1 of this Act shall become effective on October 1, 2012.

1975 (d) Part IV and Section 5-6 of this Act shall become effective on July 1, 2012.

1976 (e) Parts II and III of this Act shall become effective on January 1, 2013, and shall be
1977 applicable to all taxable years beginning on or after January 1, 2013.

1978 (f) Part I of this Act shall become effective March 1, 2013.

1979 (g) The remaining portions of this Act shall become effective on January 1, 2013.

1980 (h) Tax, penalty, and interest liabilities and refund eligibility for prior taxable years shall not
1981 be affected by the passage of this Act and shall continue to be governed by the provisions of
1982 general law as it existed immediately prior to the effective date of the relevant portion of this
1983 Act.

1984 (i) This Act shall not abate any prosecution, punishment, penalty, administrative proceedings
1985 or remedies, or civil action related to any violation of law committed prior to the effective
1986 date of the relevant portion of this Act.

1987 **SECTION 7-2.**

1988 In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared
1989 or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other
1990 sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full
1991 force and effect as if the section, subsection, sentence, clause, or phrase so declared or
1992 adjudged invalid or unconstitutional were not originally a part hereof. The General
1993 Assembly declares that it would have passed the remaining parts of this Act if it had known
1994 that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

1995 **SECTION 7-3.**

1996 All laws and parts of laws in conflict with this Act are repealed.