

House Bill 266 (AS PASSED HOUSE AND SENATE)

By: Representative Peake of the 141<sup>st</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and  
2 taxation, so as to define the terms "Internal Revenue Code" and "Internal Revenue Code of  
3 1986" and thereby incorporate certain provisions of the federal law into Georgia law; to  
4 clarify that any tax credits earned for qualified research expenses under Code  
5 Section 48-7-40.12 in any taxable year beginning before January 1, 2012, and any  
6 carryforward attributable thereto, are governed by such Code section in effect for the taxable  
7 year in which the credit was earned; to change the definition of energy used in agriculture;  
8 to provide for dealers to elect between manufacturing and agricultural exemptions; to place  
9 a good faith standard on a seller regarding exemptions from taxation; to revise provisions of  
10 law regarding state and local title ad valorem tax fees; to revise definitions regarding such  
11 fees; to revise the time for submitting such fees and penalties for failure to submit such fees  
12 timely; to provide for the payment of such fees over time in certain circumstances; to clarify  
13 the provisions of law regarding rental and leased motor vehicles; to extend the period of time  
14 which a loaner vehicle may be removed from inventory; to provide for a title ad valorem tax  
15 fee for rental and leased vehicles; to clarify the provisions of law regarding the application  
16 of title ad valorem tax fees to certain title transactions; to provide for motor vehicles titled  
17 in other states but based in this state; to exclude the application of certain sales and use taxes  
18 to motor vehicle sales and leases; to provide for related matters; to provide for effective dates  
19 and applicability; to repeal conflicting laws; and for other purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 **SECTION 1.**

22 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
23 amended by revising paragraph (14) of Code Section 48-1-2, relating to definitions regarding  
24 revenue and taxation, as follows:

25 "(14) 'Internal Revenue Code' or 'Internal Revenue Code of 1986' means for taxable years  
26 beginning on or after January 1, ~~2011~~ 2012, the provisions of the United States Internal

27 Revenue Code of 1986, as amended, provided for in federal law enacted on or before  
 28 ~~January 1, 2012~~ January 3, 2013, except that Section 85(c), Section 108(i), Section  
 29 163(e)(5)(F) Section 164(a)(6), Section 164(b)(6), Section 168(b)(3)(I), Section  
 30 168(e)(3)(B)(vii), Section 168(e)(3)(E)(ix), Section 168(e)(8), Section 168(k) (but not  
 31 excepting Section 168(k)(2)(A)(i), Section 168(k)(2)(D)(i), and Section 168(k)(2)(E)),  
 32 Section 168(m), Section 168(n), Section 172(b)(1)(H), Section 172(b)(1)(J), Section  
 33 172(j), Section 179(f), Section 199, Section 810(b)(4), Section 1400L, Section  
 34 1400N(d)(1), Section 1400N(f), Section 1400N(j), Section 1400N(k), and Section  
 35 1400N(o) of the Internal Revenue Code of 1986, as amended, shall be treated as if they  
 36 were not in effect, and except that Section 168(e)(7), Section 172(b)(1)(F), Section  
 37 172(i)(1), and Section 1221 of the Internal Revenue Code of 1986, as amended, shall be  
 38 treated as they were in effect before the 2008 enactment of federal Public Law 110-343,  
 39 and except that Section 163(i)(1) of the Internal Revenue Code of 1986, as amended,  
 40 shall be treated as it was in effect before the 2009 enactment of federal Public Law 111-5,  
 41 and except that Section 13(e)(4) of 2009 federal Public Law 111-92 shall be treated as  
 42 if it was not in effect, and except that the limitations provided in Section 179(b)(1) shall  
 43 be \$250,000.00 for tax years beginning in 2010, ~~and~~ shall be \$250,000.00 for tax years  
 44 beginning in 2011, shall be \$250,000.00 for tax years beginning in 2012, and shall be  
 45 \$250,000.00 for tax years beginning in 2013, and except that the limitations provided in  
 46 Section 179(b)(2) shall be \$800,000.00 for tax years beginning in 2010, ~~and~~ shall be  
 47 \$800,000.00 for tax years beginning in 2011, shall be \$800,000.00 for tax years  
 48 beginning in 2012, and shall be \$800,000.00 for tax years beginning in 2013, and  
 49 provided that Section 1106 of federal Public Law 112-95 shall be treated as if it is in  
 50 effect, except the phrase 'Code Section 48-2-35 (or, if later, November 15, 2013)' shall  
 51 be substituted for the phrase 'section 6511(a) of such Code (or, if later, April 15, 2013).'  
 52 and notwithstanding any other provision in this title, no interest shall be refunded with  
 53 respect to any claim for refund filed pursuant to Section 1106 of federal Public Law  
 54 112-95. In the event a reference is made in this title to the Internal Revenue Code or the  
 55 Internal Revenue Code of 1954 as it existed on a specific date prior to ~~January 1, 2012~~  
 56 January 3, 2013, the term means the provisions of the Internal Revenue Code or the  
 57 Internal Revenue Code of 1954 as it existed on the prior date. Unless otherwise provided  
 58 in this title, any term used in this title shall have the same meaning as when used in a  
 59 comparable provision or context in the Internal Revenue Code of 1986, as amended. For  
 60 taxable years beginning on or after January 1, ~~2011~~ 2012, provisions of the Internal  
 61 Revenue Code of 1986, as amended, which were as of ~~January 1, 2012~~ January 3, 2013,  
 62 enacted into law but not yet effective shall become effective for purposes of Georgia  
 63 taxation on the same dates upon which they become effective for federal tax purposes."

64 **SECTION 2.**

65 Said title is further amended by revising Code Section 48-5C-1, relating to definitions,  
66 exemption from taxation, allocation and disbursement of proceeds collected by tag agents,  
67 fair market value of vehicle appealable, and reports, as follows:

68 "48-5C-1.

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

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

71 (A) ~~The~~ For a used motor vehicle, the average of the current fair market value and the  
72 current wholesale value of a motor vehicle for a vehicle listed in the current motor  
73 vehicle ad valorem assessment manual utilized by the state revenue commissioner and  
74 based upon a nationally recognized motor vehicle industry pricing guide for fair market  
75 and wholesale mark values in determining the taxable value of a motor vehicle under  
76 Code Section 48-5-442, and, in the case of a used car dealer, less any reduction for the  
77 trade-in value of another motor vehicle;

78 (B) For a used motor vehicle which is not so listed in such current motor vehicle ad  
79 valorem assessment manual, the value from the bill of sale or the value from a reputable  
80 used car market guide designated by the commissioner, whichever is greater, and, in the  
81 case of a used car dealer, less any reduction for the trade-in value of another motor  
82 vehicle; or

83 (C) ~~The fair market value determined by the state revenue commissioner from the bill~~  
84 ~~of sale of a new motor vehicle for which there is no value under subparagraph (A) of~~  
85 ~~this paragraph, less any rebate and before any reduction for the trade-in value of another~~  
86 ~~motor vehicle: For a new motor vehicle, the greater of the retail selling price or, in the~~  
87 case of a lease of a new motor vehicle, the agreed upon value of the vehicle pursuant  
88 to the lease agreement or the average of the current fair market value and the current  
89 wholesale value of a motor vehicle for a vehicle listed in the current motor vehicle ad  
90 valorem assessment manual utilized by the state revenue commissioner in determining  
91 the taxable value of a motor vehicle under Code Section 48-5-442, less any reduction  
92 for the trade-in value of another motor vehicle and any rebate or any cash discounts  
93 provided by the selling dealer and taken at the time of sale. The retail selling price or  
94 agreed upon value shall include any charges for labor, freight, delivery, dealer fees, and  
95 similar charges and dealer add-ons and mark-ups, but shall not include any extended  
96 warranty or maintenance agreement itemized on the dealer's invoice to the customer or  
97 any finance, insurance, and interest charges for deferred payments billed separately.

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

100 (3) 'Loaner vehicle' means a motor vehicle owned by a dealer which is withdrawn  
 101 temporarily from dealer inventory for exclusive use as a courtesy vehicle loaned at no  
 102 charge for a period not to exceed 30 days within a ~~calendar year~~ 366 day period to any  
 103 one customer whose motor vehicle is being serviced by such dealer.

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

110 (5) 'Rental motor vehicle' means a motor vehicle designed to carry ~~ten~~ 15 or fewer  
 111 passengers and used primarily for the transportation of persons that is rented or leased  
 112 without a driver.

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

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

119 (b)(1)(A) Except as otherwise provided in this subsection, any motor vehicle for which  
 120 a title is issued in this state on or after March 1, 2013, shall be exempt from sales and  
 121 use taxes to the extent provided under paragraph ~~(92)~~ (95) of Code Section 48-8-3 and  
 122 shall not be subject to the ad valorem tax as otherwise required under Chapter 5 of ~~Title~~  
 123 ~~48~~ this title. Any such motor vehicle shall be titled as otherwise required under Title  
 124 40 but shall be subject to a state title fee and a local title fee which shall be alternative  
 125 ad valorem taxes as authorized by Article VII, Section I, Paragraph III(b)(3) of the  
 126 Georgia Constitution. Motor vehicles registered under the International Registration  
 127 Plan shall not be subject to state and local title ad valorem tax fees but shall continue  
 128 to be subject to apportioned ad valorem taxation under Article 10 of Chapter 5 of this  
 129 title.

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

131 (I) 'Local base amount' means \$1 billion.

132 (II) 'Local current collection amount' means the total amount of sales and use taxes  
 133 on the sale of motor vehicles under Chapter 8 of this title and motor vehicle local  
 134 ad valorem tax proceeds ~~collected~~ under this Code section and Chapter 5 of this title  
 135 which were collected during the calendar year which immediately precedes the tax

136 year in which the title ad valorem tax adjustments are required to be made under this  
137 subparagraph.

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

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

142 (V) 'State current collection amount' means the total amount of sales and use taxes  
143 on the sale of motor vehicles under Chapter 8 of this title and motor vehicle state ad  
144 valorem tax proceeds ~~collected~~ under this Code section and Chapter 5 of this title  
145 which were collected during the calendar year which immediately precedes the tax  
146 year in which the state and local title ad valorem tax rate is to be reviewed for  
147 adjustment under division (xiv) of this subparagraph. Notwithstanding the other  
148 provisions of this subdivision to the contrary, the term 'state current collection  
149 amount' for the 2014 calendar year for the purposes of the 2015 review under  
150 division (xiv) of this subparagraph shall be adjusted so that such amount is equal to  
151 the amount of motor vehicle state ad valorem tax proceeds that would have been  
152 collected under this Code section in 2014 if the combined state and local title ad  
153 valorem tax rate was 7 percent of the fair market value of the motor vehicle less any  
154 trade-in value plus the total amount of motor vehicle state ad valorem tax proceeds  
155 collected under Chapter 5 of this title during 2014.

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

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

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

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

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

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

171 (iv) For the 2014 tax year, the state title ad valorem tax shall be at a rate equal to 55  
172 percent of the tax rate specified in division (ii) of this subparagraph, and the local title

173 ad valorem tax shall be at a rate equal to 45 percent of the tax rate specified in  
174 division (ii) of this subparagraph.

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

179 (vi) For the 2016 tax year, except as otherwise provided in division (xiii) of this  
180 subparagraph, the state title ad valorem tax shall be at a rate equal to 53.5 percent of  
181 the tax rate specified in division (ii) of this subparagraph, and the local title ad  
182 valorem tax shall be at a rate equal to 46.5 percent of the tax rate specified in division  
183 (ii) of this subparagraph.

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

189 (viii) For the 2018 tax year, except as otherwise provided in division (xiii) of this  
190 subparagraph, the state title ad valorem tax shall be at a rate equal to 40 percent of the  
191 tax rate specified in division (ii) of this subparagraph, and the local title ad valorem  
192 tax shall be at a rate equal to 60 percent of the tax rate specified in division (ii) of this  
193 subparagraph.

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

199 (x) For the 2020 tax year, except as otherwise provided in division (xiii) of this  
200 subparagraph, the state title ad valorem tax shall be at a rate equal to 34 percent of the  
201 tax rate specified in division (ii) of this subparagraph, and the local title ad valorem  
202 tax shall be at a rate equal to 66 percent of the tax rate specified in division (ii) of this  
203 subparagraph.

204 (xi) For the 2021 tax year, except as otherwise provided in division (xiii) of this  
205 subparagraph, the state title ad valorem tax shall be at a rate equal to 30 percent of the  
206 tax rate specified in division (ii) of this subparagraph, and the local title ad valorem  
207 tax shall be at a rate equal to 70 percent of the tax rate specified in division (ii) of this  
208 subparagraph.

209 (xii) For the 2022 and all subsequent tax years, except as otherwise provided in  
210 division (xiii) of this subparagraph for tax years 2022, 2023, and 2024 and except as  
211 otherwise provided in division (xiv) of this subparagraph for tax year 2023, the state  
212 title ad valorem tax shall be at a rate equal to 28 percent of the tax rate specified in  
213 division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate  
214 equal to 72 percent of the tax rate specified in division (ii) of this subparagraph.

215 (xiii) Beginning in 2016, by not later than January 15 of each tax year through the  
216 2022 tax year, the state revenue commissioner shall determine the local target  
217 collection amount and the local current collection amount for the preceding calendar  
218 year. If such local current collection amount is equal to or within 1 percent of the  
219 local target collection amount, then the state title ad valorem tax rate and the local title  
220 ad valorem tax rate for such tax year shall remain at the rate specified in this  
221 subparagraph for that year. If the local current collection amount is more than 1  
222 percent greater than the local target collection amount, then the local title ad valorem  
223 tax rate for such tax year shall be reduced automatically by operation of this division  
224 by such percentage amount as may be necessary so that, if such rate had been in effect  
225 for the calendar year under review, the local current collection amount would have  
226 produced an amount equal to the local target collection amount, and the state title ad  
227 valorem tax rate for such tax year shall be increased by an equal amount to maintain  
228 the combined state and local title ad valorem tax rate at the rate specified in  
229 division (ii) of this subparagraph. If the local current collection amount is more than  
230 1 percent less than the local target collection amount, then the local title ad valorem  
231 tax rate for such tax year shall be increased automatically by operation of this division  
232 by such percentage amount as may be necessary so that, if such rate had been in effect  
233 for the calendar year under review, the local current collection amount would have  
234 produced an amount equal to the local target collection amount, and the state title ad  
235 valorem tax rate for such tax year shall be reduced by an equal amount to maintain the  
236 combined state and local title ad valorem tax rate at the rate specified in division (ii)  
237 of this subparagraph. In the event of an adjustment of such ad valorem tax rates, by  
238 not later than January 31 of such tax year, the state revenue commissioner shall notify  
239 the tax commissioner of each county in this state of the adjusted rate amounts. The  
240 effective date of such adjusted rate amounts shall be January 1 of such tax year.

241 (xiv) In tax years 2015, 2018, and 2022, by not later than July 1 of each such tax  
242 year, the state revenue commissioner shall determine the state target collection  
243 amount and the state current collection amount for the preceding calendar year. If  
244 such state current collection amount is greater than, equal to, or within 1 percent of  
245 the state target collection amount after making the adjustment, if any, required in

246 division (xiii) of this subparagraph, then the combined state and local title ad valorem  
 247 tax rate provided in division (ii) of this subparagraph shall remain at the rate specified  
 248 in such division. If the state current collection amount is more than 1 percent less  
 249 than the state target collection amount after making the adjustment, if any, required  
 250 by division (xiii) of this subparagraph, then the combined state and local title ad  
 251 valorem tax rate provided in division (ii) of this subparagraph shall be increased  
 252 automatically by operation of this division by such percentage amount as may be  
 253 necessary so that, if such rate had been in effect for the calendar year under review,  
 254 the state current collection amount would have produced an amount equal to the state  
 255 target collection amount, and the state title ad valorem tax rate and the local title ad  
 256 valorem tax rate for the tax year in which such increase in the combined state and  
 257 local title ad valorem tax rate shall become effective shall be adjusted from the rates  
 258 specified in this subparagraph or division (xiii) of this subparagraph for such tax year  
 259 such that the proceeds from such increase in the combined state and local title ad  
 260 valorem tax rate shall be allocated in full to the state. In the event of an adjustment  
 261 of the combined state and local title ad valorem tax rate, by not later than August 31  
 262 of such tax year, the state revenue commissioner shall notify the tax commissioner of  
 263 each county in this state of the adjusted combined state and local title ad valorem tax  
 264 rate for the next calendar year. The effective date of such adjusted combined state  
 265 and local title ad valorem tax rate shall be January 1 of the next calendar year.  
 266 Notwithstanding the provisions of this division, the combined state and local title ad  
 267 valorem tax rate shall not exceed 9 percent.

268 (xv) The state revenue commissioner shall promulgate such rules and regulations as  
 269 may be necessary and appropriate to implement and administer this Code section,  
 270 including, but not limited to, rules and regulations regarding appropriate public  
 271 notification of any changes in rate amounts and the effective date of such changes and  
 272 rules and regulations regarding appropriate enforcement and compliance procedures  
 273 and methods for the implementation and operation of this Code section. The state  
 274 revenue commissioner may promulgate and implement rules and regulations as may  
 275 be necessary to permit seller financed sales of used vehicles to be assessed 2.5  
 276 percentage points less than the rate specified in division (b)(1)(B)(ii) of this Code  
 277 section.

278 (C) The application for title and the state and local title ad valorem tax fees provided  
 279 for in subparagraph (A) of this paragraph shall be paid to the tag agent in the county ~~in~~  
 280 ~~which the purchaser registers such motor vehicle~~ where the motor vehicle is to be  
 281 registered and shall be paid at the time ~~the purchaser applies for a title and registers~~  
 282 ~~such motor vehicle~~ the application for a certificate of title is submitted or, in the case



283 of an electronic title transaction, at the time when the electronic title transaction is  
 284 finalized. In an electronic title transaction, the state and local title ad valorem tax fees  
 285 shall be remitted electronically directly to the county tag agent. A dealer of new or  
 286 used motor vehicles may accept such application for title and state and local title ad  
 287 valorem tax fees on behalf of the purchaser of a new or used motor vehicle for the  
 288 purpose of ~~delivering~~ ~~submitting~~ or, in the case of an electronic title application,  
 289 finalizing such title application and remitting state and local title ad valorem tax fees  
 290 to the county tag agent to obtain a tag and title for the purchaser of such motor vehicle.

291 (D) There shall be a penalty imposed on any person who, in the determination of the  
 292 commissioner, falsifies any information in any bill of sale used for purposes of  
 293 determining the fair market value of the motor vehicle. Such penalty shall not exceed  
 294 \$2,500.00 as a state penalty and shall not exceed \$2,500.00 as a local penalty as  
 295 determined by the commissioner. Such determination shall be made within 60 days of  
 296 the commissioner receiving information of a possible violation of this paragraph.

297 (E) Except in the case in which an extension of the registration period has been granted  
 298 by the county tag agent under Code Section 40-2-20, a ~~A~~ dealer of new or used motor  
 299 vehicles that accepts an application for title and state and local title ad valorem tax fees  
 300 from a purchaser of a new or used motor vehicle and does not ~~transmit~~ submit or, in the  
 301 case of an electronic title transaction, finalize such application for title and remit such  
 302 state and local title ad valorem tax fees to the county tag agent within ~~40~~ 30 days  
 303 following the date of purchase shall be liable to the county tag agent for an amount  
 304 equal to 5 percent of the amount of such state and local title ad valorem tax fees. An  
 305 additional penalty equal to 10 percent of the amount of such state and local title ad  
 306 valorem tax fees shall be imposed if such payment is not transmitted within 60 days  
 307 following the date of purchase. An additional 5-percent penalty equal to 15 percent of  
 308 the amount of such state and local title ad valorem tax fees shall be imposed if such  
 309 payment is not transmitted within 90 days following the date of purchase, and an  
 310 additional penalty equal to 20 percent of the amount of such state and local title ad  
 311 valorem tax fees shall be imposed if such payment is not transmitted within 120 days  
 312 following the date of purchase. An additional penalty equal to 25 percent of the  
 313 amount of such state and local title ad valorem tax fees shall be imposed for each  
 314 subsequent ~~month~~ 30 day period in which the payment is not transmitted.

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

319 (2) A person or entity acquiring a salvage title pursuant to subsection (b) of Code  
 320 Section 40-3-36 shall not be subject to the fee specified in paragraph (1) of this  
 321 subsection but shall be subject to a state title ad valorem tax fee in an amount equal to 1  
 322 percent of the fair market value of the motor vehicle. Such state title ad valorem tax fee  
 323 shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph  
 324 III(b)(3) of the Georgia Constitution.

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

329 (2) For the 2013 tax year and in each subsequent tax year, the amount of such funds shall  
 330 be disbursed within ~~30~~ 20 days following the end of each calendar month as follows:

331 (A) State title ad valorem tax fees, state salvage title ad valorem tax fees,  
 332 administrative fees, penalties, and interest shall be remitted to the state revenue  
 333 commissioner who shall deposit such proceeds in the general fund of the state less an  
 334 amount to be retained by the tag agent not to exceed 1 percent of the total amount  
 335 otherwise required to be remitted under this subparagraph to defray the cost of  
 336 administration. Such retained amount shall be remitted to the collecting county's  
 337 general fund. Failure by the tag agent to disburse within such ~~30~~ 20 day period shall  
 338 result in a forfeiture of such administrative fee plus interest on such amount at the rate  
 339 specified in Code Section 48-2-40; and

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

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

345 (A) The tag agent of the county shall within ~~30~~ 20 days following the end of each  
 346 calendar month allocate and distribute to the county governing authority and to  
 347 municipal governing authorities, the board of education of the county school district,  
 348 and the board of education of any independent school district located in such county an  
 349 amount of those proceeds necessary to offset any reduction in ad valorem tax on motor  
 350 vehicles collected under Chapter 5 of ~~Title 48~~ this title in the taxing jurisdiction of each  
 351 governing authority and school district from the amount of ad valorem taxes on motor  
 352 vehicles collected under Chapter 5 of ~~Title 48~~ this title in each such governing authority  
 353 and school district during the same calendar month of 2012. This reduction shall be  
 354 calculated by subtracting the amount of ad valorem tax on motor vehicles collected  
 355 under Chapter 5 of ~~Title 48~~ this title in each such taxing jurisdiction from the amount

356 of ad valorem tax on motor vehicles collected under Chapter 5 of ~~Title 48~~ this title in  
 357 that taxing jurisdiction in the same calendar month of 2012. In the event that the local  
 358 title ad valorem tax fee proceeds are insufficient to fully offset such reduction in ad  
 359 valorem taxes on motor vehicles, the tag agent shall allocate a proportionate amount of  
 360 the proceeds to each governing authority and to the board of education of each such  
 361 school district, and any remaining shortfall shall be paid from the following month's  
 362 local title ad valorem tax fee proceeds. In the event that a shortfall remains, the tag  
 363 agent shall continue to first allocate local title ad valorem tax fee proceeds to offset  
 364 such shortfalls until the shortfall has been fully repaid; and

365 (B) Of the proceeds remaining following the allocation and distribution under  
 366 subparagraph (A) of this paragraph, the tag agent shall allocate and distribute to the  
 367 county governing authority and to municipal governing authorities, the board of  
 368 education of the county school district, and the board of education of any independent  
 369 school district located in such county the remaining amount of those proceeds in the  
 370 manner provided in this subparagraph. Such proceeds shall be deposited in the general  
 371 fund of such governing authority or board of education and shall not be subject to any  
 372 use or expenditure requirements provided for under any of the following described local  
 373 sales and use taxes but shall be authorized to be expended in the same manner as  
 374 authorized for the ad valorem tax revenues on motor vehicles under Chapter 5 of ~~Title~~  
 375 ~~48~~ this title which would otherwise have been collected for such governing authority  
 376 or board of education. Of such remaining proceeds:

377 (i) An amount equal to one-third of such proceeds shall be distributed to the board  
 378 of education of the county school district and the board of education of each  
 379 independent school district located in such county in the same manner as required for  
 380 any local sales and use tax for educational purposes levied pursuant to Part 2 of  
 381 Article 3 of Chapter 8 of ~~Title 48~~ this title currently in effect. If such tax is not  
 382 currently in effect, such proceeds shall be distributed to such board or boards of  
 383 education in the same manner as if such tax were in effect;

384 (ii)(I) Except as otherwise provided in this division, an amount equal to one-third  
 385 of such proceeds shall be distributed to the governing authority of the county and  
 386 the governing authority of each qualified municipality located in such county in the  
 387 same manner as specified under the distribution certificate for the joint county and  
 388 municipal sales and use tax under Article 2 of Chapter 8 of ~~Title 48~~ this title  
 389 currently in effect.

390 (II) If such tax were never in effect, such proceeds shall be distributed to the  
 391 governing authority of the county and the governing authority of each qualified

392 municipality located in such county on a pro rata basis according to the ratio of the  
 393 population that each such municipality bears to the population of the entire county.  
 394 (III) If such tax is currently in effect as well as a local option sales and use tax for  
 395 educational purposes levied pursuant to a local constitutional amendment, an  
 396 amount equal to one-third of such proceeds shall be distributed in the same manner  
 397 as required under subdivision (I) of this division and an amount equal to one-third  
 398 of such proceeds shall be distributed to the board of education of the county school  
 399 district.

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

405 (V) If such tax is not currently in effect and a homestead option sales and use tax  
 406 under Article 2A of Chapter 8 of ~~Title 48~~ this title is in effect, such proceeds shall  
 407 be distributed to the governing authority of the county, each qualified municipality,  
 408 and each existing municipality in the same proportion as otherwise required under  
 409 Code Section 48-8-104; and

410 (iii)(I) An amount equal to one-third of such proceeds shall be distributed to the  
 411 governing authority of the county and the governing authority of each qualified  
 412 municipality located in such county in the same manner as specified under an  
 413 intergovernmental agreement or as otherwise required under the county special  
 414 purpose local option sales and use tax under Part 1 of Article 3 of Chapter 8 of ~~Title~~  
 415 ~~48~~ this title currently in effect; provided, however, that this subdivision shall not  
 416 apply if subdivision (III) of division (ii) of this subparagraph is applicable.

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

429 (III) If such tax is not currently in effect in a county in which a tax is levied for  
 430 purposes of a metropolitan area system of public transportation, as authorized by the  
 431 amendment to the Constitution set out at Ga. L. 1964, p. 1008; the continuation of  
 432 such amendment under Article XI, Section I, Paragraph IV(d) of the Constitution;  
 433 and the laws enacted pursuant to such constitutional amendment, such proceeds  
 434 shall be distributed to the governing body of the authority created by local Act to  
 435 operate such metropolitan area system of public transportation.

436 (IV) If such tax were never in effect, such proceeds shall be distributed in the same  
 437 manner as specified under the distribution certificate for the joint county and  
 438 municipal sales and use tax under Article 2 of Chapter 8 of ~~Title 48~~ this title  
 439 currently in effect; provided, however, that if such tax under such article is not in  
 440 effect, such proceeds shall be distributed to the governing authority of the county  
 441 and the governing authority of each qualified municipality located in such county  
 442 on a pro rata basis according to the ratio of the population that each such  
 443 municipality bears to the population of the entire county.

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

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

464 (2)(A) Upon the transfer from an immediate family member of a motor vehicle which  
 465 has not become subject to paragraph (1) of subsection (b) of this Code section, the

466 immediate family member or immediate family members who receive such motor  
 467 vehicle shall, subsequent to the transfer of title of such motor vehicle, continue to be  
 468 subject to ad valorem tax under Chapter 5 of ~~Title 48~~ this title and shall not be subject  
 469 to the state and local title ad valorem tax fees provided for in paragraph (1) of  
 470 subsection (b) of this Code section unless the immediate family member or immediate  
 471 family members make an affirmative written election to become subject to paragraph  
 472 (1) of subsection (b) of this Code section. In the event of such election, such transfer  
 473 shall be subject to the state and local title ad valorem tax fees provided for in paragraph  
 474 (1) of subsection (b) of this Code section.

475 (B) Upon the transfer from an immediate family member of a motor vehicle which has  
 476 become subject to paragraph (1) of subsection (b) of this Code section, the immediate  
 477 family member who receives such motor vehicle shall transfer title of such motor  
 478 vehicle to such recipient family member and shall be subject to a state title ad valorem  
 479 tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the  
 480 motor vehicle and a local title ad valorem tax fee in an amount equal to one-quarter of  
 481 1 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees  
 482 shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph  
 483 III(b)(3) of the Georgia Constitution.

484 (C) Any title transfer under this paragraph shall be accompanied by an affidavit of the  
 485 transferor and transferee that such persons are immediate family members to one  
 486 another. There shall be a penalty imposed on any person who, in the determination of  
 487 the state revenue commissioner, falsifies any material information in such affidavit.  
 488 Such penalty shall not exceed \$2,500.00 as a state penalty and shall not exceed  
 489 \$2,500.00 as a local penalty as determined by the state revenue commissioner. Such  
 490 determination shall be made within 60 days of the state revenue commissioner  
 491 receiving information of a possible violation of this paragraph.

492 (3) Any individual who:

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

495 (B) Is required to file an application for a certificate of title under Code Section  
 496 40-3-21 or 40-3-32

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

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

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

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

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

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

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

534 (9) Any owner of any motor vehicle who fails to submit within 30 days of the date such  
535 owner is required by law to register such vehicle in this state an application for a first  
536 certificate of title under Code Section 40-3-21 or a certificate of title under Code  
537 Section 40-3-32 shall be required to pay a penalty in the amount of 10 percent of the state

538 title ad valorem tax fees and 10 percent of the local title ad valorem tax fees required  
 539 under this Code section, ~~plus and, if such state and local title ad valorem tax fees and the~~  
 540 ~~penalty are not paid within 60 days following the date such owner is required by law to~~  
 541 ~~register such vehicle, interest at the rate of 1.0 percent per month shall be imposed on the~~  
 542 ~~state and local title ad valorem tax fees due under this Code section,~~ unless a temporary  
 543 permit has been issued by the tax commissioner. The tax commissioner shall grant a  
 544 temporary permit in the event the failure to timely apply for a first certificate of title is  
 545 due to the failure of a lienholder to comply with Code Section 40-3-56, regarding release  
 546 of a security interest or lien, and no penalty or interest shall be assessed. Such penalty  
 547 and interest shall be in addition to the penalty and fee required under Code Section  
 548 40-3-21 or 40-3-32, as applicable. ~~A new or used motor vehicle dealer shall be~~  
 549 ~~responsible for remitting state and local title ad valorem tax fees in the same manner as~~  
 550 ~~otherwise required of an owner under this paragraph and shall be subject to the same~~  
 551 ~~penalties and interest as an owner for noncompliance with the requirements of this~~  
 552 ~~paragraph.~~

553 (10) The owner of any motor vehicle ~~purchased in this state~~ for which a title was issued  
 554 in this state on or after January 1, 2012, and prior to March 1, 2013, shall be authorized  
 555 to opt in to the provisions of this subsection at any time prior to ~~January 1~~ February 28,  
 556 2014, upon compliance with the following requirements:

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

560 (ii) The total amount of Georgia state and local sales and use tax and Georgia state  
 561 and local ad valorem tax under Chapter 5 of ~~Title 48~~ this title which were due and  
 562 paid in 2012 for that motor vehicle and, if applicable, the total amount of such taxes  
 563 which were due and paid for that motor vehicle in 2013 and 2014 shall be determined;  
 564 and

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

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

572 Upon certification by the tag agent of compliance with the requirements of this  
 573 paragraph, such motor vehicle shall not be subject to ad valorem tax as otherwise



574 required under Chapter 5 of ~~Title 48~~ this title in the same manner as otherwise provided  
 575 in paragraph (1) of subsection (b) of this Code section.

576 (11)(A) In the case of rental motor vehicles owned by a rental motor vehicle concern,  
 577 the state title ad valorem tax fee shall be in an amount equal to ~~.75~~ .625 percent of the  
 578 fair market value of the motor vehicle, and the local title ad valorem tax fee shall be in  
 579 an amount equal to ~~.75~~ .625 percent of the fair market value of the motor vehicle, but  
 580 only if in the immediately prior calendar year the average amount of sales and use tax  
 581 attributable to the rental charge of each such rental motor vehicle was at least \$400.00  
 582 as certified by the state revenue commissioner. If, in the immediately prior calendar  
 583 year, the average amount of sales and use tax attributable to the rental charge of each  
 584 such rental motor vehicle was not at least \$400.00, this paragraph shall not apply and  
 585 such vehicles shall be subject to the state and local title ad valorem tax fees prescribed  
 586 in division (b)(1)(B)(ii) of this Code section.

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

589 (12) A loaner vehicle shall not be subject to state and local title ad valorem tax fees  
 590 under paragraph (1) of subsection (b) of this Code section for a period of time not to  
 591 exceed ~~six months in a calendar year~~ 366 days commencing on the date such loaner  
 592 vehicle is withdrawn temporarily from inventory. Immediately upon the expiration of  
 593 such ~~six-month~~ 366 day period, if the dealer does not return the loaner vehicle to  
 594 inventory for resale, the dealer shall be responsible for remitting state and local title ad  
 595 valorem tax fees in the same manner as otherwise required of an owner under paragraph  
 596 (9) of this subsection and shall be subject to the same penalties and interest as an owner  
 597 for noncompliance with the requirements of paragraph (9) of this subsection.

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

605 (14)(A) A lessor of motor vehicles that leases motor vehicles for more than 31  
 606 consecutive days to lessees residing in this state shall register with the department. The  
 607 department shall collect an annual fee of \$100.00 for such registrations. Failure of a  
 608 lessor to register under this subparagraph shall subject such lessor to a civil penalty of  
 609 \$2,500.00.

610 (B) A lessee residing in this state who leases a motor vehicle under this paragraph shall  
611 register such motor vehicle with the tag agent in such lessee's county of residence  
612 within 30 days of the commencement of the lease of such motor vehicle or beginning  
613 residence in this state, whichever is later.

614 (C) A lessor that leases a motor vehicle under this paragraph to a lessee residing in this  
615 state shall apply for a certificate of title in this state within 30 days of the  
616 commencement of the lease of such motor vehicle.

617 (15) There shall be no liability for any state or local title ad valorem tax fees in any of  
618 the following title transactions:

619 (A) The addition or substitution of lienholders on a motor vehicle title so long as the  
620 owner of the motor vehicle remains the same;

621 (B) The acquisition of a bonded title by a person or entity pursuant to Code  
622 Section 40-3-28 if the title is to be issued in the name of such person or entity;

623 (C) The acquisition of a title to a motor vehicle by a person or entity as a result of the  
624 foreclosure of a mechanic's lien pursuant to Code Section 40-3-54 if such title is to be  
625 issued in the name of such lienholder;

626 (D) The acquisition of a title to an abandoned motor vehicle by a person or entity  
627 pursuant to Chapter 11 of this title if such person or entity is a manufacturer or dealer  
628 of motor vehicles and the title is to be issued in the name of such person or entity;

629 (E) The obtaining of a title to a stolen motor vehicle by a person or entity pursuant to  
630 Code Section 40-3-43;

631 (F) The obtaining of a title by and in the name of a motor vehicle manufacturer,  
632 licensed distributor, licensed dealer, or licensed rebuilder for the purpose of sale or  
633 resale or to obtain a corrected title, provided that the manufacturer, distributor, dealer,  
634 or rebuilder shall submit an affidavit in a form promulgated by the commissioner  
635 attesting that the transfer of title is for the purpose of accomplishing a sale or resale or  
636 to correct a title only;

637 (G) The obtaining of a title by and in the name of the holder of a security interest when  
638 a motor vehicle has been repossessed after default in accordance with Part 6 of Article 9  
639 of Title 11 if such title is to be issued in the name of such security interest holder;

640 (H) The obtaining of a title by a person or entity for purposes of correcting a title,  
641 changing an odometer reading, or removing an odometer discrepancy legend, provided  
642 that, subject to subparagraph (F) of this paragraph, title is not being transferred to  
643 another person or entity; and

644 (I) The obtaining of a title by a person who pays state and local title ad valorem tax  
645 fees on a motor vehicle and subsequently moves out of this state but returns and applies  
646 to retitle such vehicle in this state.

647 (16) It shall be unlawful for a person to fail to obtain a title for and register a motor  
 648 vehicle in accordance with the provisions of this chapter. Any person who knowingly  
 649 and willfully fails to obtain a title for or register a motor vehicle in accordance with the  
 650 provisions of this chapter shall be guilty of a misdemeanor.

651 (17) Any person who purchases a 1963 through 1985 model year motor vehicle for  
 652 which such person obtains a title shall be subject to this Code section, but the state title  
 653 ad valorem tax fee shall be in an amount equal to .50 percent of the fair market value of  
 654 such motor vehicle, and the local title ad valorem tax fee shall be in an amount equal to  
 655 .50 percent of the fair market value of such motor vehicle.

656 (e) The fair market value of any motor vehicle subject to this Code section shall be  
 657 appealable in the same manner as otherwise authorized for a motor vehicle subject to ad  
 658 valorem taxation under Code Section 48-5-450; provided, however, that the person  
 659 appealing the fair market value shall first pay the full amount of the state and local title ad  
 660 valorem tax prior to filing any appeal. If the appeal is successful, the amount of the tax  
 661 owed shall be recalculated and, if the amount paid by the person appealing the  
 662 determination of fair market value is greater than the recalculated tax owed, the person  
 663 shall be promptly given a refund of the difference.

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

669 **SECTION 3.**

670 Said title is further amended by revising Code Section 48-7-40.12, relating to tax credits for  
 671 qualified research expenses, by adding a new subsection to read as follows:

672 "(f) Any credit earned under this Code section in any taxable year beginning before  
 673 January 1, 2012, and any credit carryforward attributable thereto, shall be governed by this  
 674 Code section as in effect for the taxable year in which such credit was earned, including,  
 675 but not limited to, when determining whether such credit or any credit carryforward may  
 676 be taken as a credit against the taxpayer's quarterly or monthly payments under Code  
 677 Section 48-7-103."

678 **SECTION 4.**

679 Said title is further amended by revising paragraph (95) of Code Section 48-8-3, relating to  
 680 exemptions from state sales and use taxes, as follows:

681 "(95) The sale or purchase of any motor vehicle titled in this state on or after March 1,  
 682 2013, pursuant to Code Section 48-5C-1. ~~This~~ Except as otherwise provided in this  
 683 paragraph, this exemption shall not apply to leases or rentals of motor vehicles for  
 684 periods of 31 or fewer consecutive days or to those sales and use taxes collected pursuant  
 685 to subsection (d) of Code Section 48-8-241. Lease payments for a motor vehicle that is  
 686 leased for more than 31 consecutive days for which a state and local title ad valorem tax  
 687 is paid shall be exempt from sales and use taxes as provided for in this paragraph. No  
 688 sales and use taxes shall be imposed upon state and local title ad valorem tax fees  
 689 imposed pursuant to Chapter 5C of this title as a part of the purchase price of a motor  
 690 vehicle or any portion of a lease or rental payment that is attributable to payment of state  
 691 and local title ad valorem tax fees under Chapter 5C of this title."

692 **SECTION 5.**

693 Said title is further amended by revising paragraph (4) of subsection (a) and adding a new  
 694 subsection to Code Section 48-8-3.3, relating to an exemption from state sales and use taxes  
 695 for certain agricultural inputs and machinery, to read as follows:

696 "(4) 'Energy used in agriculture' means fuels used for agricultural purposes, including,  
 697 ~~but~~ purposes, other than fuels subject to prepaid state tax as defined in Code Section  
 698 48-8-2. The term includes, but is not limited to, off-road diesel, propane, butane,  
 699 electricity, natural gas, wood, wood products, or wood by-products; liquefied petroleum  
 700 gas or other fuel used in structures in which broilers, pullets, or other poultry are raised,  
 701 in which swine are raised, in which dairy animals are raised or milked or where dairy  
 702 products are stored on a farm, in which agricultural products are stored, and in which  
 703 plants, seedlings, nursery stock, or floral products are raised primarily for the purposes  
 704 of making sales of such plants, seedlings, nursery stock, or floral products for resale;  
 705 electricity or other fuel for the operation of an irrigation system which is used on a farm  
 706 exclusively for the irrigation of agricultural products; and electricity or other fuel used  
 707 in the drying, cooking, or further processing of raw agricultural products, including, but  
 708 not limited to, food processing of raw agricultural products."

709 "(f) A dealer that performs both manufacturing and agricultural operations at a single place  
 710 of business may avail itself of the exemptions under either Code Section 48-8-3.2 or this  
 711 Code section, but not both, for that place of business in any one calendar year."

712 **SECTION 6.**

713 Said title is further amended by revising Code Section 48-8-38, relating to the burden of  
 714 proof on the seller as to taxability, as follows:

715 "48-8-38.

716 (a) All gross sales of a retailer are subject to the tax imposed by this article until the  
717 contrary is established. The burden of proving that a sale of tangible personal property is  
718 not a sale at retail is shall be upon the person who makes the sale unless such person, in  
719 good faith, takes from the purchaser a certificate stating that the property is purchased for  
720 resale or is otherwise tax exempt.

721 (b) The certificate relieves the seller from the burden of proof as provided in subsection  
722 (a) of this Code section if the seller acquires from the purchaser a properly completed  
723 certificate taken in good faith. A properly completed certificate taken in good faith means  
724 a seller shall obtain a certificate:

725 (1) That is fully completed, including, but not limited to, the name, address, sales tax  
726 number, and signature of the taxpayer when required;

727 (2) In a form appropriate for the type of exemption claimed;

728 (3) Claiming an exemption that was statutorily available on the date of the transaction  
729 in the jurisdiction where the transaction is sourced;

730 (4) Claiming an exemption that could be applicable to the item being purchased; and

731 (5) Claiming an exemption that is reasonable for the purchaser's type of business.

732 (c) The certificate relieves the seller from the burden of proof on sales for resale as  
733 provided in subsection (a) of this Code section if the seller acquires from the purchaser a  
734 properly completed certificate, taken in good faith, from a purchaser who:

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

736 (2) Has a valid sales tax registration number at the time of purchase and has listed his or  
737 her sales tax number on the certificate; and

738 (3) At the time of purchasing the tangible personal property, the seller has no reason to  
739 believe that the purchaser does not intend to resell it in his or her regular course of  
740 business.

741 ~~(e)(d)~~ The certificate shall include such information as is determined by the commissioner  
742 and is signed by the purchaser if it is a paper exemption certificate.

743 ~~(d) A purchaser claiming an exemption electronically shall use the standard form as~~  
744 ~~adopted by the Streamlined Sales Tax Governing Board.~~

745 (e) A seller shall obtain the same information for proof of a claimed exemption regardless  
746 of the medium in which the transaction occurred.

747 ~~(f) The department shall relieve a seller of the tax otherwise applicable if the seller obtains~~  
748 ~~a fully completed exemption certificate approved by the Streamlined Sales Tax Governing~~  
749 ~~Board, the department, or the Multistate Tax Commission or captures the relevant data~~  
750 ~~elements required under the Streamlined Sales and Use Tax Agreement within 90 days~~  
751 ~~subsequent to the date of sale. If the seller has not obtained a fully completed exemption~~

752 ~~certificate or all relevant data elements required under the Streamlined Sales and Use Tax~~  
 753 ~~Agreement within 90 days subsequent to the date of sale, the department shall provide the~~  
 754 ~~seller with 120 days subsequent to a request for substantiation to either:~~

755 ~~(1) Obtain a fully completed exemption certificate from the purchaser, taken in good~~  
 756 ~~faith which means that the seller obtain a certificate that claims an exemption that:~~

757 ~~(A) Was statutorily available on the date of the transaction in the jurisdiction where the~~  
 758 ~~transaction is sourced;~~

759 ~~(B) Could be applicable to the item being purchased; and~~

760 ~~(C) Is reasonable for the purchaser's type of business; or~~

761 ~~(2) Obtain other information establishing that the transaction was not subject to the tax.~~

762 ~~(g) The department shall relieve a seller of the tax otherwise applicable if the seller obtains~~  
 763 ~~a blanket exemption certificate from a purchaser with which the seller has a recurring~~  
 764 ~~business relationship."~~

765 **SECTION 7.**

766 (a) This section and Section 1 of this Act shall become effective upon its approval by the  
 767 Governor or upon its becoming law without such approval, and Section 1 shall be  
 768 applicable to all taxable years beginning on or after January 1, 2012, except the provisions  
 769 in Section 1 relating to Section 1106 of federal Public Law 112-95 shall also apply to  
 770 taxable years beginning before January 1, 2012.

771 (b) Section 3 of this Act shall become effective upon its approval by the Governor or upon  
 772 its becoming law without such approval and shall be applicable to all taxable years  
 773 beginning on or after January 1, 2012.

774 (c) The remaining sections of this Act shall become effective upon its approval by the  
 775 Governor or upon its becoming law without such approval.

776 **SECTION 8.**

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