House Bill 445
By: Representative Carson of the 46th

A BILL TO BE ENTITLED
AN ACT

To amend certain titles of the Official Code of Georgia Annotated so as to provide for comprehensive changes to the nature of taxation in this state; to amend Titles 48, 36, and 46 of the Official Code of Georgia Annotated, relating, respectively, to revenue and taxation, local government, and public utilities, so as to provide for comprehensive revision of personal income taxes; to redefine taxable net income; to provide for a flat rate tax structure; to change certain adjustments to income; to provide for procedures, conditions, and limitations; to revise certain provisions regarding low-income tax credits; to change and provide for sales and use tax definitions; to provide for the comprehensive revision of exemptions from sales and use taxes; to provide for the repeal of certain exemptions at various points in time; to provide for the sales and use taxation of digital products; to provide for conforming amendments; to provide that every purchaser of certain tangible personal property which is or which is required to be titled or registered by or in this state shall be liable for sales and use tax on the purchase; to provide for requirements, procedures, conditions, and limitations; to provide for consolidated and simplified state and local excise taxes on communications services in lieu of certain other state or local taxes, charges, or fees on such services; to provide for legislative findings and intent; to provide for sales and use tax exemptions and refunds; to provide for comprehensive procedures, conditions, and limitations; to provide for powers, duties, and authority of the Department of Revenue and the state revenue commissioner; to amend certain titles of the Official Code of Georgia Annotated so as to correct certain cross-references and make conforming changes; to provide for a short title; to provide for effective dates; to provide for applicability; to provide that certain provisions of this Act shall not abate or affect prosecutions, punishments, penalties, administrative proceedings or remedies, or civil actions related to certain violations; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:
This Act shall be known and may be cited as the "More Take Home Pay Act of 2015."

SECTION 1-2.

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

"48-7-20.

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

(b)(1) For taxable years beginning prior to January 1, 2016:

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

SINGLE PERSON

<table>
<thead>
<tr>
<th>If Georgia Taxable Net Income Is:</th>
<th>The Tax Is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over $750.00</td>
<td>1%</td>
</tr>
<tr>
<td>Over $750.00 but not over $2,250.00</td>
<td>$7.50 plus 2% of amount over $750.00</td>
</tr>
<tr>
<td>Over $2,250.00 but not over $3,750.00</td>
<td>$37.50 plus 3% of amount over $2,250.00</td>
</tr>
<tr>
<td>Over $3,750.00 but not over $5,250.00</td>
<td>$82.50 plus 4% of amount over $3,750.00</td>
</tr>
<tr>
<td>Over $5,250.00 but not over $7,000.00</td>
<td>$142.50 plus 5% of amount over $5,250.00</td>
</tr>
<tr>
<td>Over $7,000.00</td>
<td>$230.00 plus 6% of amount over $7,000.00</td>
</tr>
</tbody>
</table>
MARRIED PERSON FILING A SEPARATE RETURN

If Georgia Taxable Net Income Is:
The Tax Is:
Not over $500.00 .......................... 1%
Over $500.00 but not over $1,500.00 ....... $5.00 plus $2% of amount over $500.00
Over $1,500.00 but not over $2,500.00 .... $25.00 plus $3% of amount over $1,500.00
Over $2,500.00 but not over $3,500.00 .... $55.00 plus $4% of amount over $2,500.00
Over $3,500.00 but not over $5,000.00 .... $95.00 plus $5% of amount over $3,500.00
Over $5,000.00 .......................... $170.00 plus $6% of amount over $5,000.00

HEAD OF HOUSEHOLD AND MARRIED PERSONS FILING A JOINT RETURN

If Georgia Taxable Net Income Is:
The Tax Is:
Not over $1,000.00 ........................ 1%
Over $1,000.00 but not over $3,000.00 .... $10.00 plus $2% of amount over $1,000.00
Over $3,000.00 but not over $5,000.00 .... $50.00 plus $3% of amount over $3,000.00
Over $5,000.00 but not over $7,000.00 .... $110.00 plus $4% of amount over $5,000.00
Over $7,000.00 but not over $10,000.00 .... $190.00 plus $5% of amount over $7,000.00
Over $10,000.00 .......................... $340.00 plus $6% of amount over $10,000.00

(2) To facilitate the computation of the tax by those taxpayers whose federal adjusted gross income together with the adjustments set out in Code Section 48-7-27 for use in arriving at Georgia taxable net income is less than $10,000.00, the commissioner may construct tax tables which may be used by the taxpayers at their option. The tax shown
to be due by the tables shall be computed on the bases of the standard deduction and the
tax rates specified in paragraph (1) of this subsection. Insofar as practicable, the tables
shall produce a tax approximately equivalent to the tax imposed by paragraph (1) of this
subsection.
(c)(1) For taxable years beginning on or after January 1, 2016, the tax imposed pursuant
to subsection (a) of this Code section shall be the amount determined by multiplying the
Georgia taxable net income of the taxpayer by 4.5 percent.
(2) For taxable years beginning on or after January 1, 2017, the tax imposed pursuant to
subsection (a) of this Code section shall be the amount determined by multiplying the
Georgia taxable net income of the taxpayer by 4.25 percent.
(d) For taxable years beginning on or after January 1, 2018, the tax imposed pursuant to
subsection (a) of this Code section shall be the amount determined by multiplying the
Georgia taxable net income of the taxpayer by 4 percent.
(e) The amount deducted and withheld by an employer from the wages of an employee
pursuant to Article 5 of this chapter, relating to current income tax payments, shall be
allowed the employee as a credit against the tax imposed by this Code section. Amounts
paid by an individual as estimated tax under Article 5 of this chapter shall constitute
payments on account of the tax imposed by this Code section. The amount withheld or
paid during any calendar year shall be allowed as a credit or payment for the taxable year
beginning in the calendar year in which the amount is withheld or paid.
(f) The tax imposed by this Code section applies to the Georgia taxable net income of
estates and trusts, which shall be computed in the same manner as in the case of a single
individual. The tax shall be computed on the Georgia taxable net income and shall be paid
by the fiduciary.

SECTION 1-3.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.1,
relating to a tax credit for retrofitting certain single-family homes with accessibility features,
as follows:
(e) This Code section shall be repealed effective December 31, 2019. The value of any
tax credits accrued under this Code section prior to December 31, 2015, shall be allowed
to be carried forward to the taxpayer's next three succeeding years' tax liability. No such
tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax
credit shall accrue on or after January 1, 2016.
SECTION 1-4.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.2, relating to a tax credit for qualified caregiving expenses, as follows:

“(f) This Code section shall be repealed effective December 31, 2017. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next succeeding year's tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016.”

SECTION 1-5.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.3, relating to a tax credit for federal qualified transportation fringe benefits, as follows:

“(e) This Code section shall be repealed effective December 31, 2019. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next three succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016.”

SECTION 1-6.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.4, relating to a tax credit for disaster assistance funds received, as follows:

“(d) This Code section shall be repealed effective December 31, 2021. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016.”

SECTION 1-7.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.5, relating to a tax credit for private driver education courses, as follows:

“(f) This Code section shall be repealed effective December 31, 2017. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next succeeding year's tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016.”
SECTION 1-8.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.10, relating to a tax credit for qualified child and dependent care expenses, as follows:

“(d) This Code section shall be repealed effective December 31, 2017. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next succeeding year's tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016.”

SECTION 1-9.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.11, relating to a tax credit for teleworking, as follows:

“(h) This Code section shall be repealed effective December 31, 2016. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next succeeding year's tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after December 31, 2016.”

SECTION 1-10.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.12, relating to a tax credit for donation of real property, as follows:

“(h) This Code section shall be repealed effective December 31, 2017. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next succeeding year's tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016.”

SECTION 1-11.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.14, relating to a tax credit for clean energy property, as follows:

“(e) This Code section shall be repealed effective December 31, 2019. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next three succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016.”
SECTION 1-12.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.15, relating to a tax credit for the adoption of a foster child, as follows:

"(e) This Code section shall be repealed effective December 31, 2021. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016."

SECTION 1-13.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-29.17, relating to a tax credit for the purchase of one single-family residence, as follows:

"(f) This Code section shall be repealed effective December 31, 2021. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016."

SECTION 1-14.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.6, relating to a tax credit for employers providing child care, as follows:

"(h) This Code section shall be repealed effective December 31, 2021. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016."

SECTION 1-15.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.7, relating to a tax credit for existing manufacturing and telecommunications facilities in tier 1 counties, as follows:

"(e) This Code section shall be repealed effective December 31, 2021. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016."
SECTION 1-16.

Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.8, relating to a tax credit for existing manufacturing and telecommunications facilities in tier 2 counties, as follows:

“(e) This Code section shall be repealed effective December 31, 2021. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer’s next five succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016.”

SECTION 1-17.

Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.9, relating to a tax credit for existing manufacturing and telecommunications facilities in tier 3 and 4 counties, as follows:

“(e) This Code section shall be repealed effective December 31, 2021. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016.”

SECTION 1-18.

Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.10, relating to a tax credit for water conservation facilities and qualified water conservation investment property, as follows:

“(d) This Code section shall be repealed effective December 31, 2019. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next three succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016.”

SECTION 1-19.

Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.11, relating to a tax credit for shift from ground-water usage, as follows:

“(d) This Code section shall be repealed effective December 31, 2021. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax
Credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016."

SECTION 1-20.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.12, relating to a tax credit for qualified research expenses, as follows:
"(g) This Code section shall be repealed effective December 31, 2017. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next succeeding year's tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016."

SECTION 1-21.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.15, relating to a tax credit for base year port traffic increases, as follows:
"(f) This Code section shall be repealed effective December 31, 2026. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next ten succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016."

SECTION 1-22.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.15A, relating to a tax credit for increase in port traffic, as follows:
"(f) This Code section shall be repealed effective December 31, 2015."

SECTION 1-23.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.16, relating to a tax credit for low-emission vehicles, as follows:
"(h) This Code section shall be repealed effective December 31, 2021. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016."
SECTION 1-24.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.17, relating to a tax credit for establishing or relocating quality jobs, as follows:

“(h) This Code section shall be repealed effective December 31, 2021. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016.”

SECTION 1-25.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.18, relating to a tax credit for businesses headquartered in the state, as follows:

“(d) This Code section shall be repealed effective December 31, 2017. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next succeeding year's tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016.”

SECTION 1-26.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.19, relating to a tax credit for diesel particulate emission reduction technology equipment, as follows:

“(h) This Code section shall be repealed effective December 31, 2016. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next succeeding year's tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after December 31, 2016.”

SECTION 1-27.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.20, relating to a tax credit for businesses manufacturing cigarettes for exportation, as follows:

“(e) This Code section shall be repealed effective December 31, 2021. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016.”
SECTION 1-28.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.22, relating to a tax credit for business enterprises leasing certain vehicles, as follows:

“(h) This Code section shall be repealed effective December 31, 2018. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next two succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016.”

SECTION 1-29.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.24, relating to conditions for taking a job tax credit by business enterprises, as follows:

“(q) This Code section shall be repealed effective December 31, 2026. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next ten succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016.”

SECTION 1-30.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.27, relating to a tax credit for qualified investments, as follows:

“(g) This Code section shall be repealed effective December 31, 2020. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next four succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016.”

SECTION 1-31.
Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.28, relating to a limitation on the tax credit for qualified investments, as follows:

“(f) This Code section shall be repealed effective December 31, 2020. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next four succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016.”
SECTION 1-32.

Said Title 48 is further amended by adding a new subsection to Code Section 48-7-40.29, relating to a tax credit for qualified equipment that reduces business or domestic energy or water usage, as follows:

“(i) This Code section shall be repealed effective December 31, 2021. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next five succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016.”

SECTION 1-33.

Said Title 48 is further amended by adding a new subsection to Code Section 48-7-41, relating to a tax credit for a basic skills education program, as follows:

“(f) This Code section shall be repealed effective December 31, 2017. The value of any tax credits accrued under this Code section prior to December 31, 2015, shall be allowed to be carried forward to the taxpayer's next succeeding year's tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability, and no such tax credit shall accrue on or after January 1, 2016.”

SECTION 1-34.

Said Title 48 is further amended by revising subsection (b) of Code Section 48-7A-3, relating to person entitled to claim an income tax credit, as follows:

“(b) Each taxpayer may claim a tax credit in the amount indicated for each adjusted gross income bracket as shown in the schedule below multiplied by the number of dependents which the taxpayer is entitled to claim. Each taxpayer 65 years of age or over may claim double the tax credit.

TAX CREDIT SCHEDULE

<table>
<thead>
<tr>
<th>Adjusted Gross Income</th>
<th>Tax Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under $6,000.00</td>
<td>$ 26.00</td>
</tr>
<tr>
<td>6,000.00 but not more than 7,999.00</td>
<td>20.00</td>
</tr>
<tr>
<td>8,000.00 but not more than 9,999.00</td>
<td>14.00</td>
</tr>
<tr>
<td>10,000.00 but not more than 14,999.00</td>
<td>8.00</td>
</tr>
<tr>
<td>15,000.00 but not more than 19,999.00</td>
<td>5.00</td>
</tr>
</tbody>
</table>

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Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended in Code Section 48-8-2, relating to definitions regarding sales and use tax, by revising paragraph (39) as follows:

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

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

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

(C) Tangible personal property;

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

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

(F) Internet access service;

(G) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services shall include but not be limited to cable service as defined in 47 U.S.C. Section 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. Section 20.3; or

(H) Ancillary services; or

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

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

"48-8-2.1.

(a) As used in this Code section, the term:
(1) 'Delivered electronically' means delivered to the purchaser by means other than tangible storage media.

(2) 'Services' means the providing by a dealer other than one which is qualified as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code, and as governed and determined under subsection (b) of Code Section 48-7-25, of any services listed in subsection (c) of this Code section.

(b) Sales of or charges made for services, descriptions of services, or services provided by establishments listed in subsection (c) of this Code section shall be taxed at the rate specified in subsection (a) of Code Section 48-8-30 and shall be collected as specified in this article.

(c) For purposes of this Code section, 'services' include:

(1) Products transferred electronically, including specified digital products, sold to an end user with rights of permanent or less than permanent use and regardless of whether the end user is required to make continued payments for such rights. Products transferred electronically are not subject to the tax imposed under this Code section if such products are subject to the tax imposed under Chapter 18 of this title;

(2) Prewritten computer software delivered electronically; and

(3) Prewritten computer software transferred electronically, which includes a charge to consumers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis."

SECTION 2-3.

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

"48-8-3.

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

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

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

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

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

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

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

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

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

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

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

(6.2) Sales to any local government authority created on or after January 1, 1980, by local law, which authority has as its principal purpose or one of its principal purposes the construction, ownership, or operation of a coliseum and related facilities to be used for athletic contests, games, meetings, trade fairs, expositions, political conventions,
agricultural events, theatrical and musical performances, conventions, or other public
entertainments or any combination of such purposes;
(6.3) Sales to any agricultural commodities commission created by and regulated
pursuant to Chapter 8 of Title 2;
(7) Sales of tangible personal property and services to a nonprofit licensed nursing home,
nonprofit licensed in-patient hospice, or a nonprofit general or mental hospital used
exclusively by such nursing home, in-patient hospice, or hospital in performing a general
nursing home, in-patient hospice, hospital, or mental hospital treatment function in this
state when such nursing home, in-patient hospice, or hospital is a tax exempt organization
under the Internal Revenue Code and obtains an exemption determination letter from the
commissioner;
(7.05)(A) For the period commencing on July 1, 2008, and ending on June 30, 2010,
sales of tangible personal property to a nonprofit health center in this state which has
been established under the authority of and is receiving funds pursuant to the United
States Public Health Service Act, 42 U.S.C. Section 254b if such health clinic obtains
an exemption determination letter from the commissioner.
(B)(i) For the purposes of this paragraph, the term 'local sales and use tax' shall mean
any sales tax, use tax, or local sales and use tax which is levied and imposed in an
area consisting of less than the entire state, however authorized, including, but not
limited to, such taxes authorized by or pursuant to constitutional amendment; by or
pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as
amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or
pursuant to Article 2, 2A, 3, or 4 of this chapter.
(ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply
to any local sales and use tax levied or imposed at any time.
(7.1) Sales of tangible personal property and services to a nonprofit organization, the
primary function of which is the provision of services to mentally retarded persons, when
such organization is a tax exempt organization under the Internal Revenue Code and
obtains an exemption determination letter from the commissioner;
(7.2) Sales of tangible personal property or services to any chapter of the Georgia State
Society of the Daughters of the American Revolution which is tax exempt under Section
501(c)(3) of the Internal Revenue Code and obtains an exemption determination letter
from the commissioner;
(7.3) For the period commencing July 1, 2008, and ending June 30, 2010, sales of
tangible personal property and services to a nonprofit volunteer health clinic which
primarily treats indigent persons with incomes below 200 percent of the federal poverty
level and which property and services are used exclusively by such volunteer health clinic
in performing a general treatment function in this state when such volunteer health clinic
is a tax exempt organization under the Internal Revenue Code and obtains an exemption
determination letter from the commissioner;

(8) Sales of tangible personal property and services to the University System of Georgia
and its educational units;

(9) Sales of tangible personal property and services to be used exclusively for
educational purposes by those private colleges and universities in this state whose
academic credits are accepted as equivalents by the University System of Georgia and its
educational units;

(10) Sales of tangible personal property and services to be used exclusively for
educational purposes by those bona fide private elementary and secondary schools which
have been approved by the commissioner as organizations eligible to receive tax
deductible contributions if application for exemption is made to the department and proof
of the exemption is established;

(11) Sales of tangible personal property or services to, and the purchase of tangible
personal property or services by, any educational or cultural institute which:

(A) Is tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(B) Furnishes at least 50 percent of its programs through universities and other
institutions of higher education in support of their educational programs;

(C) Is paid for by government funds of a foreign country; and

(D) Is an instrumentality, agency, department, or branch of a foreign government
operating through a permanent location in this state.

This paragraph shall be repealed and reserved on December 31, 2015;

(12) Food and food ingredients and prepared food sold and served to pupils and
employees of public schools as part of a school lunch program;

(13) Sales of prepared food and food and food ingredients consumed by pupils and
employees of bona fide private elementary and secondary schools which have been
approved by the commissioner as organizations eligible to receive tax deductible
contributions when application for exemption is made to the department and proof of the
exemption is established;

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

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

(B) By religious institutions or denominations when:

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

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

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

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

(I) Relief to the aged;

(II) Church related youth activities;

(III) Religious instruction or worship; or

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

(15.1) Sales of pipe organs or steeple bells to any church which is qualified as an exempt religious organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. This paragraph shall be repealed on December 31, 2015;

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

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

(18) Charges made for the transportation of tangible personal property except delivery charges by the seller associated with the sale of taxable tangible personal property, including, but not limited to, charges for accessorial services such as refrigeration, switching, storage, and demurrage made in connection with interstate and intrastate transportation of the property;

(19) All tangible personal property purchased outside of this state by persons who at the time of purchase are not domiciled in this state but who subsequently become domiciled in this state and bring the property into this state for the first time as a result of the change of domicile, if the property is not brought into this state for use in a trade, business, or profession;

(20) The sale of water delivered to consumers through water mains, lines, or pipes;
(21) Sales, transfers, or exchanges of tangible personal property made as a result of a business reorganization when the owners, partners, or stockholders of the business being reorganized maintain the same proportionate interest or share in the newly formed business reorganization;

(22) Professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made;

(23) Fees or charges for services rendered by repairmen for which a separate charge is made;

(24) The rental of videotape or motion picture film to any person who charges an admission fee to view such film or videotape;

(25) Reserved;

(26) Reserved;

(27) Reserved;

(28) Reserved;

(29) Reserved;

(29.1) Reserved;

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

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

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

(33)(A) The sale of aircraft, watercraft, railroad locomotives and rolling stock, motor vehicles, and major components of each, which will be used principally to cross the borders of this state in the service of transporting passengers or cargo by common carriers and by carriers who hold common carrier and contract carrier authority in interstate or foreign commerce under authority granted by the United States government. Replacement parts installed by carriers in such aircraft, watercraft, railroad locomotives and rolling stock, and motor vehicles which become an integral part of the craft, equipment, or vehicle shall also be exempt from all taxes under this article;
(B) In lieu of any tax under this article which would apply to the purchase, sale, use, storage, or consumption of the tangible personal property described in this paragraph but for this exemption, the tax under this article shall apply with respect to all fuel purchased and delivered within this state by or to any common carrier and with respect to all fuel purchased outside this state and stored in this state irrespective, in either case, of the place of its subsequent use;

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

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

(ii) For the period of time beginning July 1, 2012, the sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall be exempt from 1 percent of the 4 percent state sales and use tax specified in subsection (a) of Code Section 48-8-30.

(C) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall be exempt at all times from the sales or use tax levied and imposed as authorized pursuant to Part 1 of Article 3 of this chapter. As used in this subparagraph, the term 'qualifying airport' means any airport in this state that has had more than 750,000 takeoffs and landings during a calendar year, and the term 'qualifying airline' shall have the same meaning as set forth in subparagraph (E) of this paragraph.

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

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

(F) For purposes of division (ii) of subparagraph (B) of this paragraph and paragraph
(2) of subsection (d) of Code Section 48-8-241, the term 'qualifying airport' means a
certificated air carrier airport in Georgia.

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

This paragraph shall be repealed on December 31, 2015;

(34) Reserved;

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

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

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

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

(34.3) Reserved;

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

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

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

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

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

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

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

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

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

This paragraph shall be repealed on December 31, 2015;

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

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

This paragraph shall be repealed and reserved on December 31, 2015;

The sale of machinery and equipment which is incorporated into any qualified water conservation facility and used for water conservation.

As used in this paragraph, the term:

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

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

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

Reserved;

Sales of tangible personal property and fees and charges for services by the Rock Eagle 4-H Center. This paragraph shall be repealed and reserved on December 31, 2015;
(39) Sales by any public or private school containing any combination of grades kindergarten through 12 of tangible personal property, concessions, or tickets for admission to a school event or function, provided that the net proceeds from such sales are used solely for the benefit of such public or private school or its students;

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

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

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

(B) Sales by an institution, agency, or home as described in subparagraph (A) of this paragraph when:
   (i) The sale results from a specific charitable fundraising activity;
   (ii) The number of days upon which the fundraising activity occurs does not exceed 30 in any calendar year;
   (iii) No part of the gross sales or net profits from the sales inures to the benefit of any private person; and
   (iv) The gross sales or net profits from the sales are used purely for charitable purposes in providing child services;

(42) The use by, or lease or rental of tangible personal property to, a person who acquires the property from another person where both persons are under 100 percent common ownership and where the person who furnishes, leases, or rents the property has:
   (A) Previously paid sales or use tax on the property; or
   (B) Been credited under Code Section 48-8-42 with paying a sales or use tax on the property so furnished, leased, or rented, and the tax credited is based upon the fair rental or lease value of the property;

(43) Gross revenues generated from all bona fide coin operated amusement machines which vend or dispense music or are operated for skill, amusement, entertainment, or pleasure which are in commercial use and are provided to the public for play which will require a permit fee under Chapter 27 of Title 50;
(44) Sales of motor vehicles, as defined in Code Section 48-5-440, to nonresident purchasers for immediate transportation to and use in another state in which the vehicles are required to be registered, provided the seller obtains from the purchaser and retains an affidavit stating the name and address of the purchaser, the state in which the vehicle will be registered and operated, the make, model, and serial number of the vehicle, and such other information as the commissioner may require;

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

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

(47)(A)(i) The sale or use of drugs which are lawfully dispensable only by prescription for the treatment of natural persons, the sale or use of insulin regardless of whether the insulin is dispensable only by prescription, and the sale or use of prescription eyeglasses and contact lenses including, without limitation, prescription contact lenses distributed by the manufacturer to licensed dispensers as free samples not intended for resale and labeled as such; and

(ii) The sale or use of drugs lawfully dispensable by prescription for the treatment of natural persons which are dispensed or distributed without charge to physicians, dentists, clinics, hospitals, or any other person or entity located in Georgia by a pharmaceutical manufacturer or distributor; and the use of drugs and durable medical equipment lawfully dispensed or distributed without charge solely for the purposes of a clinical trial approved by either the United States Food and Drug Administration or by an institutional review board.

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

(i) 'Drug' means the same as provided in Code Section 48-8-2 but shall not include over-the-counter drugs or tobacco.

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

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

(48) Sales to licensed commercial fishermen of bait for taking crabs and the use by licensed commercial fishermen of bait for taking crabs;

(49) Reserved;

(49.1)(A) From July 1, 2008, until June 30, 2010, the sale or use of liquefied petroleum gas or other fuel used in a structure in which swine are raised.

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

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area consisting of less than the entire state, however authorized, including, but not
limited to, such taxes authorized by or pursuant to constitutional amendment; by or
pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as
amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; by or
pursuant to Article 2 of this chapter; by or pursuant to Article 2A of this chapter; by
or pursuant to Part 1 of Article 3 of this chapter; by or pursuant to Part 2 of Article 3
of this chapter; and by or pursuant to Article 4 of this chapter.

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

(50) Sales of insulin syringes and blood glucose level measuring strips dispensed without
a prescription;

(51) Sales of oxygen prescribed by a licensed physician;

(52) The sale or use of hearing aids;

(53) Sales transactions for which food stamps or WIC coupons are used as the medium
of exchange;

(54) The sale or use of any durable medical equipment that is sold or used pursuant to
a prescription or prosthetic device that is sold or used pursuant to a prescription;

(55) The sale of lottery tickets authorized by Chapter 27 of Title 50;

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

(57)(A)(i) Until December 31, 2016, the sale of food and food ingredients to an
individual consumer for off-premises human consumption, to the extent provided in
this paragraph.

(ii) On or after January 1, 2017, through December 31, 2017, the sale of food and
food ingredients to an individual consumer for off-premises human consumption shall
be taxed at the rate of 3 percent.

(iii) On or after January 1, 2018, through December 31, 2018, the sale of food and
food ingredients to an individual consumer for off-premises human consumption shall
be taxed at the rate of 4 percent.

(iv) Beginning January 1, 2019, the sale of food and food ingredients to an individual
consumer for off-premises human consumption shall be taxed at the rate of 5 percent.

(B) For the purposes of this paragraph, the term 'food and food ingredients' as defined
in Code Section 48-8-2 shall not include prepared food, drugs, or over-the-counter
drugs.

(C) The exemption provided for in this paragraph shall not apply to the sale or use of
food and food ingredients when purchased for any use in the operation of a business.
(D)(i) The exemption provided for in this paragraph shall not apply to any local sales and use tax levied or imposed at any time.

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

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

(57.1)(A) From July 1, 2014, until June 30, 2016, sales of food and food ingredients to a qualified food bank.

(B) As used in this paragraph, the term 'qualified food bank' means any food bank which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and which is operated primarily for the purpose of providing hunger relief to low income persons residing in this state.

(C) The commissioner is authorized to promulgate rules and regulations deemed necessary in order to administer and effectuate this paragraph.

This paragraph shall be repealed on December 31, 2016:

(57.2)(A) For the period commencing July 1, 2007, and ending on June 30, 2011, the use of prepared food which is donated to a qualified nonprofit agency and which is used for hunger relief purposes.

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

(C) The commissioner is authorized to promulgate rules and regulations deemed necessary in order to administer and effectuate this paragraph.

This paragraph shall be repealed on December 31, 2015:

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

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

This paragraph shall be repealed on December 31, 2015:

(58) Reserved;
(59)(A) Sales of food and food ingredients to and by member councils of the Girl Scouts of the U.S.A. in connection with fundraising activities of any such council.

(B) Sales of food and food ingredients to and by member councils of the Boy Scouts of America in connection with fundraising activities of any such council;

(60) The sale of machinery and equipment which is incorporated into any telecommunications manufacturing facility and used for the primary purpose of improving air quality in advanced technology clean rooms of Class 100,000 or less, provided such clean rooms are used directly in the manufacture of tangible personal property. This paragraph shall be repealed and reserved on December 31, 2015;

(61) Printed advertising inserts or advertising supplements distributed in this state in or as part of any newspaper for resale;

(62) The sale of grass sod of all kinds and character when such sod is in the original state of production or condition of preparation for sale. The exemption provided for by this paragraph shall only apply to a sale made by the sod producer, a member of such producer's family, or an employee of such producer. The exemption provided for by this paragraph shall not apply to sales of grass sod by a person engaged in the business of selling plants, seedlings, nursery stock, or floral products;

(63) The sale or use of funeral merchandise, outer burial containers, and cemetery markers as defined in Code Section 43-18-1, which are purchased with funds received from the Georgia Crime Victims Emergency Fund under Chapter 15 of Title 17;

(64) Reserved;

(65)(A) Sales of dyed diesel fuel exclusively used to operate vessels or boats in the commercial fishing trade by licensed commercial fishermen.

(B) Any person making a sale of dyed diesel fuel for the purposes specified in this paragraph shall collect the tax imposed on the sale by this article unless the purchaser furnishes such person with a certificate issued by the commissioner certifying that the purchaser is entitled to purchase the dyed diesel fuel without paying the tax;

(66) Sales of gold, silver, or platinum bullion or any combination of such bullion, provided that the dealer maintains proper documentation, as specified by rule or regulation to be promulgated by the department, to identify each sale or portion of a sale which is exempt under this paragraph;

(67) Sales of coins or currency or a combination of coins and currency, provided that the dealer maintains proper documentation, as specified by rule or regulation to be promulgated by the department, to identify each sale or portion of a sale which is exempt under this paragraph;

(68)(A) The sale or lease of computer equipment to be incorporated into a facility or facilities in this state to any high-technology company classified under North American
Industrial Classification System code 51121, 51331, 51333, 51334, 51421, 52232, 54133, 54171, 54172, 334413, 334611, 513321, 513322, 514191, 541511, 541512, 541513, or 541519 where such sale of computer equipment for any calendar year exceeds $15 million or, in the event of a lease of such computer equipment, the fair market value of such leased computer equipment for any calendar year exceeds $15 million.

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

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

(ii) The term shall not include:

(I) Telephone central office equipment or other voice data transport technology; or

(II) Equipment with imbedded computer hardware or software which is primarily used for training, product testing, or in a manufacturing process.

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

(69) The sale of machinery, equipment, and materials incorporated into and used in the construction or operation of a clean room of Class 100 or less in this state, not to include the building or any permanent, nonremovable component of the building that houses such clean room, provided that such clean room is used directly in the manufacture of tangible
personal property in this state. This paragraph shall be repealed and reserved on December 31, 2015.

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

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

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

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

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

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

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

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

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

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

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

(72) The sale or use of all mobility enhancing equipment prescribed by a physician;

(73) Reserved;

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

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

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

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

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

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

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

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

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

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

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

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

(75)(A) The sale of eligible property. The exemption provided by this paragraph applies only to sales occurring during periods:

(i) Commencing at 12:01 A.M. on August 1, 2014, and concluding at 12:00 Midnight on August 2, 2014; and

(ii) Commencing at 12:01 A.M. on July 31, 2015, and concluding at 12:00 Midnight on August 1, 2015.

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

(i) 'Clothing' means all human wearing apparel suitable for general use and includes footwear. The term 'clothing' excludes belt buckles sold separately; costume masks sold separately; patches and emblems sold separately; sewing equipment and supplies, including but not limited to knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles; sewing materials that become part of

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clothing, including but not limited to buttons, fabric, lace, thread, yarn, and zippers; and clothing accessories or equipment.

(ii) 'Clothing accessories or equipment' means incidental items worn on the person or in conjunction with clothing.

(iii) 'Computer' means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions. The term 'computer' excludes cellular phones.

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

(v) 'Eligible property' means:

(I) Articles of clothing with a sales price of $100.00 or less per item;

(II) Computers, computer components, and prewritten computer software purchased for noncommercial home or personal use with a sales price of $1,000.00 or less per item; and

(III) School supplies, school art supplies, school computer supplies, and school instructional materials purchased for noncommercial use with a sales price of $20.00 or less per item.

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

(vii) 'School art supply' means an item commonly used by a student in a course of study for artwork.
(viii) 'School computer supply' means an item commonly used by a student in a course of study in which a computer is used.

(ix) 'School instructional material' means written material commonly used by a student in a course of study as a reference and to learn the subject being taught.

(x) 'School supply' means an item commonly used by a student in a course of study.

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

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

(77) Reserved;

(78)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from May 5, 2004, until September 1, 2011, sales of tangible personal property used in direct connection with the construction of a new symphony hall facility owned or operated by an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code if the aggregate construction cost of such facility is $200 million or more.

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

This paragraph shall be repealed and reserved on December 31, 2015;

(79) Reserved;

(80)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from May 17, 2004, until December 31, 2007, sales of tangible personal property to, or used in or for the new construction of an eligible corporate attraction.

(B) As used in this paragraph, the term 'corporate attraction' means any tourist attraction facility constructed on or after May 17, 2004, dedicated to the history and products of a corporation which costs exceeds $50 million, is greater than 60,000 square feet of space, and has associated facilities, including but not limited to parking decks and landscaping owned by the same owner as the eligible corporate attraction.

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

This paragraph shall be repealed and reserved on December 31, 2015:

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

(82)(A) Purchase of Energy Star Qualified Products or WaterSense Products with a sales price of $1,500.00 or less per product purchased for noncommercial home or personal use. The exemption provided by this paragraph shall apply only to sales:

   (i) Commencing at 12:01 A.M. on October 3, 2014, and concluding at 12:00 Midnight on October 5, 2014; and

   (ii) Commencing at 12:01 A.M. on October 2, 2015, and concluding at 12:00 Midnight on October 4, 2015.

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

   (i) 'Energy Star Qualified Product' means any dishwasher, clothes washer, air conditioner, ceiling fan, fluorescent light bulb, dehumidifier, programmable thermostat, refrigerator, door, or window that meets the energy efficient guidelines set by the United States Environmental Protection Agency and the United States Department of Energy and is authorized to carry the Energy Star label.

   (ii) 'WaterSense Product' means a product authorized to bear the United States Environmental Protection Agency WaterSense label.

(C) The exemption provided for in subparagraph (A) of this paragraph shall not apply to purchases of Energy Star Qualified Products or WaterSense Products purchased for trade, business, or resale.

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

This paragraph shall be repealed and reserved on December 31, 2015:
(83)(A) The sale or use of biomass material, including pellets or other fuels derived from compressed, chipped, or shredded biomass material, utilized in the production of energy, including without limitation the production of electricity, steam, or the production of electricity and steam, which is subsequently sold.

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

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

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

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

This paragraph shall be repealed and reserved on December 31, 2015;

(85) Reserved;

(86) The sale or use of engines, parts, equipment, and other tangible personal property used in the maintenance or repair of aircraft when such engines, parts, equipment, and other tangible personal property are installed on such aircraft that is being repaired or maintained in this state, so long as such aircraft is not registered in this state;

(87)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from July 1, 2013, until June 30, 2015, sales of tangible personal property used for and in the renovation or expansion of a zoological institution.

(B) As used in this paragraph, the term 'zoological institution' means a nonprofit wildlife park, terrestrial institution, or facility which:
(i) Is open to the public, exhibits and cares for a collection consisting primarily of animals other than fish, and has received accreditation from the Association of Zoos and Aquariums; and

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

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

This paragraph shall be repealed and reserved on December 31, 2015:

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

(B) As used in this paragraph, the term 'civil rights museum' means a museum which is constructed after July 1, 2009; is owned or operated by an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; has more than 40,000 square feet of space; and has associated facilities, including, but not limited to, special event space and retail space.

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

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

This paragraph shall be repealed and reserved on December 31, 2015:

(89) For the period commencing on July 1, 2009, and ending on June 30, 2011, the sale or use of an airplane flight simulation training device approved by the Federal Aviation Administration under Appendices A and B, 14 C.F.R. Part 60. This paragraph shall be repealed and reserved on December 31, 2015:

(90) Reserved;

(91) The sale of prewritten software which has been delivered to the purchaser electronically or by means of load and leave. This paragraph shall be repealed and reserved on December 31, 2015:
(92) For the period commencing July 1, 2012, and ending on December 31, 2013, sales to an organization defined by the Internal Revenue Service as an instrumentality of the states relating to the holding of an annual meeting in this state. This paragraph shall be repealed and reserved on December 31, 2015;

(93)(A) For the period commencing January 1, 2012, until June 30, 2016, sales of tangible personal property used for and in the construction of a competitive project of regional significance.

(B) The exemption provided in subparagraph (A) of this paragraph shall apply to purchases made during the entire time of construction of the competitive project of regional significance so long as such project meets the definition of a 'competitive project of regional significance' within the period commencing January 1, 2012, until June 30, 2016.

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

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

(94) The sale, use, consumption, or storage of materials, containers, labels, sacks, or bags used for packaging tangible personal property for shipment or sale. To qualify for the packaging exemption, the items shall be used solely for packaging and shall not be purchased for reuse. The packaging exemption shall not include materials purchased at a retail establishment for consumer use; or

(95) The sale or purchase of any motor vehicle titled in this state on or after March 1, 2013, pursuant to Code Section 48-5C-1. Except as otherwise provided in this paragraph, this exemption shall not apply to rentals of motor vehicles for periods of 31 or fewer consecutive days. Lease payments for a motor vehicle that is leased for more than 31 consecutive days for which a state and local title ad valorem tax is paid shall be exempt from sales and use taxes as provided for in this paragraph. No sales and use taxes shall be imposed upon state and local title ad valorem tax fees imposed pursuant to Chapter 5C of this title as a part of the purchase price of a motor vehicle or any portion of a lease or rental payment that is attributable to payment of state and local title ad valorem tax fees under Chapter 5C of this title.
SECTION 2-4.
Said Title 48 is further amended by revising subsection (c.1) of Code Section 48-8-6, relating to limitations with respect to certain taxes, as follows:

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

SECTION 2-5.
Said Title 48 is further amended by revising Code Section 48-8-30, relating to the rate and imposition of the state sales and use tax, as follows:

48-8-30.
(a)(1) There is levied and imposed a tax on the retail purchase, retail sale, rental, storage, use, or consumption of tangible personal property and on the services described in this article.

(2) Until December 31, 2016, the rate of the state sales and use taxation provided for in this article shall be 4 percent.

(3) On or after January 1, 2017, the rate of the state sales and use taxation provided for in this article shall be 5 percent.

(b)(1) Every purchaser of tangible personal property at retail in this state shall be liable for a tax on the purchase at the rate of 4 percent of the sales price of the purchase specified in subsection (a) of this Code section. The tax shall be paid by the purchaser to the retailer making the sale, as provided in this article. The retailer shall remit the tax to the commissioner as provided in this article and, when received by the commissioner, the tax shall be a credit against the tax imposed on the retailer. Every person making a sale or sales of tangible personal property at retail in this state shall be a retailer and a dealer and shall be liable for a tax on the sale at the rate of 4 percent percentage of the sales price of the purchase specified in subsection (a) of this Code section, or the amount of taxes collected by him or her from his or her purchaser or purchasers, whichever is greater.

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

(c)(1) Upon the first instance of use, consumption, distribution, or storage within this state of tangible personal property purchased at retail outside this state, the owner or user of the property shall be a dealer and shall be liable for a tax at the rate of 4 percent percentage of the sales price of the purchase specified in subsection (a) of this Code section, except as provided in paragraph (2) of this subsection.
(2) Upon the first instance of use, consumption, distribution, or storage within this state of tangible personal property purchased at retail outside this state and used outside this state for more than six months prior to its first use within this state, the owner or user of the property shall be a dealer and shall be liable for a tax at the rate of 4 percent of the purchase price or fair market value of the property specified in subsection (a) of this Code section, whichever is the lesser.

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

(c.1)(1) Every purchaser of tangible personal property at retail outside this state from a dealer, as defined in Code Section 48-8-2, when such property is to be used, consumed, distributed, or stored within this state, shall be liable for a tax on the purchase at the rate of 4 percent of the sales price of the purchase specified in subsection (a) of this Code section. It shall be prima-facie evidence that such property is to be used, consumed, distributed, or stored within this state if such property is delivered in this state to the purchaser or agent thereof. The tax shall be paid by the purchaser to the retailer making the sale, as provided in this article. The retailer shall remit the tax to the commissioner as provided in this article and, when received by the commissioner, the tax shall be a credit against the tax imposed on the retailer. Every person who is a dealer, as defined in Code Section 48-8-2, and who makes any sale of tangible personal property at retail outside this state, which property is to be delivered in this state to a purchaser or purchaser's agent, shall be a retailer and a dealer for purposes of this article and shall be liable for a tax on the sale at the rate of 4 percent of such sales price specified in subsection (a) of this Code section or the amount of tax as collected by that person from purchasers having their purchases delivered in this state, whichever is greater.

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

(d)(1) Every person to whom tangible personal property in the state is leased or rented shall be liable for a tax on the lease or rental at the rate of 4 percent of the sales price specified in subsection (a) of this Code section. The tax shall be paid to the person who leases or rents the property by the person to whom the property is leased or rented. A person who leases or rents property to others as a dealer under this article shall remit the tax to the commissioner as provided in this article. When received by the commissioner, the tax shall be a credit against the tax imposed on the person who leases or rents the property to others. Every person who leases or rents tangible personal
property in this state to others shall be a dealer and shall be liable for a tax on the lease or rental at the rate of 4 percent of the sales price specified in subsection (a) of this Code section, or the amount of taxes collected by him or her from persons to whom he or she leases or rents tangible personal property, whichever is greater.

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

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

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

(e.1)(1) Every person who leases, as lessor, or rents tangible personal property outside this state for use within this state shall be liable for a tax at the rate of 4 percent of the sales price paid for that lease or rental if that person is a dealer, as defined in Code Section 48-8-2, and title to that property remains in that person. It shall be prima-facie evidence that such property is to be used within this state if that property is delivered in this state to the lessee or renter of such property, or to the agent of either. The tax shall be paid by the lessee or renter, and payment of the tax shall be made to the lessor or person receiving rental payments for that property, which person shall be the dealer for purposes of this article. The dealer shall remit the tax to the commissioner as provided in this article and, when received by the commissioner, the tax shall be a credit against the tax imposed on the dealer. Every person who is a dealer, as defined in Code Section 48-8-2, and who leases or rents tangible personal property outside this state to be delivered in this state to the lessee, renter, or agent of either shall be a dealer and shall be liable as such for a tax on the lease or rental at the rate of 4 percent of the sales price from such leases or rentals or the amount of taxes collected by that dealer for leases or rentals of tangible personal property delivered in this state, whichever is greater.
(2) No lease or rental shall be taxable to the dealer which is not taxable to the lessee or renter. The tax imposed by this subsection shall be subject to the credit granted by this article for like taxes previously paid in another state. This subsection shall not be construed to require a duplication in the payment of the tax.

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

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

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

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

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

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

(k) The prepaid local tax shall be imposed at the time tax is imposed under subparagraph (b)(2)(B) of Code Section 48-9-14 pursuant to paragraph (23) of Code Section 48-8-2.

SECTION 2-6.

Said Title 48 is further amended by revising Code Section 48-8-32, relating to collection of the tax from dealers, as follows:

"48-8-32. The tax at the rate of 4 percent of the retail sales price at the time of sale or 4 percent of the purchase price at the time of purchase, as the case may be, shall be collectable at the rate specified in subsection (a) of Code Section 48-8-30 from all persons engaged as dealers in the sale at retail, or in the use, consumption, distribution, or storage for use or consumption in this state of tangible personal property."

SECTION 2-7.

Said Title 48 is further amended by revising Code Section 48-8-43, relating to the disposition of certain excess taxes, as follows:

"48-8-43. When the tax collected for any period is in excess of 4 percent the rate specified in subsection (a) of Code Section 48-8-30, the total tax collected shall be paid over to the commissioner less the compensation to be allowed the dealer."
Said Title 48 is further amended by revising subsection (e) of Code Section 48-8-63, relating to the payment of the tax by certain contractors, as follows:

"(e)(1) Any subcontractor who enters into a construction contract with a general or prime contractor shall be liable under this article as a general or prime contractor. Any general or prime contractor who enters into any construction contract or contracts with any nonresident subcontractor, where the total amount of such contract or contracts between such general or prime contractor and any nonresident subcontractors on any given project equals or exceeds $250,000.00, shall withhold 2 percent of the payments due the nonresident subcontractor in satisfaction of any sales or use taxes owed this state. The percentage shall be at the rate specified in subsection (a) of Code Section 48-8-30.

(2) The prime or general contractor shall withhold payments on all contracts that meet the criteria specified in paragraph (1) of this subsection until the nonresident subcontractor furnishes such prime or general contractor with a certificate issued by the commissioner showing that all sales taxes accruing by reason of the contract between the nonresident subcontractor and the general or prime contractor have been paid and satisfied. If the prime or general contractor for any reason fails to withhold 2 percent of the payments due the nonresident subcontractor under their contract, such prime or general contractor shall become liable for any sales or use taxes due or owed this state by the nonresident subcontractor."

Said Title 48 is further amended by revising subsection (d) of Code Section 48-8-201, relating to distribution of proceeds of the water and sewer projects and costs tax, as follows:

“(d) On and after July 1, 2007, the aggregate amount of all excise taxes imposed under paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and use taxes shall not exceed 14 15 percent.”

Said Title 48 is further amended by revising subsection (a) of Code Section 48-11-2, relating to an excise tax on tobacco products, as follows:

“(a) An excise tax, in addition to all other taxes of every kind imposed by law, is imposed upon the sale, receipt, purchase, possession, consumption, handling, distribution, or use of cigars, cigarettes, and loose or smokeless tobacco in this state at the following rates:

(1) Little cigars: two and one-half mills each;"
(2) All cigars other than little cigars: 23 percent of the wholesale cost price, exclusive of any trade, cash, or other discounts or any promotion, advertising, display, or similar allowances;

(3) Cigarettes:

(A) Until December 31, 2016, 37¢ per pack of 20 cigarettes and a like rate, pro rata, for other size packages; and

(B) From January 1, 2017, until December 31, 2017, 45¢ per pack of 20 cigarettes and a like rate, pro rata, for other size packages;

(C) From January 1, 2018, until December 31, 2018, 55¢ per pack of 20 cigarettes and a like rate, pro rata, for other size packages; and

(D) From January 1, 2019 onward, 65¢ per pack of 20 cigarettes and a like rate, pro rata, for other size packages;

(4) Loose or smokeless tobacco: 10 percent of the wholesale cost price, exclusive of any trade, cash, or other discounts or any promotion, advertising, display, or similar allowances.

SECTION 2-11.

Said Title 48 is further amended by revising paragraphs (3.1), (4.1), and (5.1) of subsection (a) of Code Section 48-13-51, relating to the excise tax on rooms, lodgings, and accommodations, as follows:

*(3.1) Notwithstanding any other provision of this subsection, a county (within the territorial limits of the special district located within the county) and the municipalities within a county in which a trade and convention center authority has been created by intergovernmental contract between a county and one or more municipalities located therein, and which trade and convention center authority is in existence on or before March 21, 1988, and which trade and convention center authority has not constructed or operated any facility before March 21, 1988, may levy a tax under this Code section at a rate of 6 percent. A county or municipality levying a tax pursuant to this paragraph shall expend (in each fiscal year during which the tax is collected under this paragraph) an amount equal to at least 62 1/2 percent of the total taxes collected at the rate of 6 percent for the purpose of: (A) promoting tourism, conventions, and trade shows; (B) funding, supporting, acquiring, constructing, renovating, improving, and equipping buildings, structures, and facilities, including, but not limited to, a trade and convention center, exhibit hall, conference center, performing arts center, accommodations facilities, including food service, or any combination thereof, for convention, trade show, athletic, musical, theatrical, cultural, civic, and performing arts purposes and other events and activities for similar and related purposes, acquiring the necessary property therefor, both
real and personal, and funding all expenses incident thereto, and supporting, maintaining, and promoting such facilities owned, operated, or leased by or to the local trade and convention center authority; or (C) for some combination of such purposes; provided, however, that at least 50 percent of the total taxes collected at the rate of 6 percent shall be expended for the purposes specified in subparagraph (B) of this paragraph. Amounts so expended shall be expended only through a contract or contracts with the state, a department of state government, a state authority, a convention and visitors bureau authority created by local Act of the General Assembly for a municipality, a local building authority created by local constitutional amendment, and a trade and convention center authority created by intergovernmental contract between a county and one or more municipalities located therein, or a private sector nonprofit organization or through a contract or contracts with some combination of such entities. The aggregate amount of all excise taxes imposed under this paragraph and all sales and use taxes, and other taxes imposed by a county or municipality, or both, shall not exceed 13 percent. Any tax levied pursuant to this paragraph shall terminate not later than December 31, 2029, provided that during any period during which there remains outstanding any obligation issued to fund a facility as contemplated by this paragraph, secured in whole or in part by a pledge of a tax authorized under this Code section, the powers of the counties and municipalities to impose and distribute the tax imposed by this paragraph shall not be diminished or impaired by the state, and no county or municipality levying the tax imposed by this paragraph shall cease to levy the tax in any manner that will impair the interests and rights of the holder of any such obligation. This proviso shall be for the benefit of the holder of any such obligation and, upon the issuance of any such obligation by a building authority created by local constitutional amendment, shall constitute a contract with the holder of such obligation. Notwithstanding any other provision of this Code section to the contrary, as used in this paragraph, the term ‘fund’ or ‘funding’ shall include the cost and expense of all things deemed necessary by a building authority created by local constitutional amendment for the construction and operation of a facility or facilities, including, but not limited to, the study, operation, marketing, acquisition, construction, financing, including the payment of principal and interest on any obligation of the building authority created by local constitutional amendment and any obligation of the building authority created by local constitutional amendment to refund any prior obligation of the building authority created by local constitutional amendment, development, extension, enlargement, or improvement of land, waters, property, streets, highways, buildings, structures, equipment, or facilities, and the repayment of any obligation incurred by an authority in connection therewith; ‘obligation’ shall include bonds, notes, or any instrument creating an obligation to pay or reserve moneys and...
having an initial term of not more than 37 years; and ‘facility’ or ‘facilities’ shall mean any of the buildings, structures, and facilities described in subparagraph (B) of this paragraph and any associated parking areas or improvements originally owned or operated incident to the ownership or operation of such facility used for any purpose or purposes specified in subparagraph (B) of this paragraph by a building authority created by local constitutional amendment.”

“(4.1) Notwithstanding any other provision of this subsection, a county (within the territorial limits of the special district located within the county) or municipality within a county in which a coliseum authority has been created by local Act of the General Assembly and which authority is in existence on or before July 1, 1963, for the purpose of owning or operating a facility, may levy a tax under this Code section at a rate of 7 percent. A county or municipality levying a tax pursuant to this paragraph shall expend (in each fiscal year during which the tax is collected under this paragraph) an amount equal to at least 62 1/2 percent of the total taxes collected at the rate of 7 percent for the purpose of: (A) promoting tourism, conventions, and trade shows; (B) funding and supporting a facility owned or operated by such coliseum authority; or (C) for some combination of such purposes. Amounts so expended shall be expended only through a contract or contracts with the state, a department of state government, a state authority, a convention and visitors bureau authority created by local Act of the General Assembly for a municipality, a local coliseum authority, or a private sector nonprofit organization, or through a contract or contracts with some combination of such entities, except that amounts expended for purpose (B) may be so expended in any otherwise lawful manner without the necessity of a contract. The aggregate amount of all excise taxes imposed under this paragraph and all sales and use taxes, and other taxes imposed by a county or municipality, or both, shall not exceed 12 1/3 percent. Any tax levied pursuant to this paragraph shall terminate not later than December 31, 2028, provided that during any period during which there remains outstanding any obligation which is incurred prior to January 1, 1995, issued to fund a facility as contemplated by this paragraph, and secured in whole or in part by a pledge of a tax authorized under this Code section, the powers of the counties and municipalities to impose and distribute the tax imposed by this paragraph shall not be diminished or impaired by the state, and no county or municipality levying the tax imposed by this paragraph shall cease to levy the tax in any manner that will impair the interest and rights of the holders of any such obligation. This proviso shall be for the benefit of the holder of any such obligation and, upon the issuance of any such obligation by a coliseum and exhibit hall authority, shall constitute a contract with the holder of such obligations. Notwithstanding any other provision of this Code section to the contrary, as used in this paragraph, the term ‘fund’ and or ‘funding’ shall include...
the cost and expense of all things deemed necessary by a local coliseum authority for the
coloration, renovation, and operation of a facility, including, but not limited to, the
study, operation, marketing, acquisition, construction, finance, development, extension,
enlargement, or improvement of land, waters, property, streets, highways, buildings,
structures, equipment, or facilities, and the repayment of any obligation incurred by a
local coliseum authority in connection therewith; 'obligation' shall include bonds, notes,
or any instrument creating an obligation to pay or reserve moneys incurred prior to
January 1, 1995, and having an initial term of not more than 30 years; and 'facility' shall
mean a coliseum or other facility and any associated parking areas or
improvements originally owned or operated incident to the ownership or operation of a
facility used for convention and trade show purposes or amusement purposes, educational
purposes, or a combination thereof and for fairs, expositions, or exhibitions in connection
therewith by a local coliseum authority."

"(5.1) Notwithstanding any other provision of this subsection, a county (within the
territorial limits of the special district located within the county) and the municipalities
within a county in which a coliseum and exhibit hall authority has been created by local
Act of the General Assembly for a county and one or more municipalities therein, and
which local coliseum and exhibit hall authority is in existence on or before January 1, 1991,
and which local coliseum and exhibit hall authority has not constructed or operated
any facility before January 1, 1991, may levy a tax under this Code section at a rate of 8
percent. A county or municipality levying a tax pursuant to this paragraph shall expend
(in each fiscal year during which the tax is collected under this paragraph) an amount
equal to at least 62 1/2 percent of the total taxes collected at the rate of 8 percent for the
purpose of: (A) promoting tourism, conventions, and trade shows; (B) funding,supporting, acquiring, constructing, renovating, improving, and equipping buildings,
structures, and facilities, including, but not limited to, a coliseum, exhibit hall, conference
center, performing arts center, or any combination thereof, for convention, trade show,
athletic, musical, theatrical, cultural, civic, and performing arts purposes and other events
and activities for similar and related purposes, acquiring the necessary property therefor,
both real and personal, and funding all expenses incident thereto, and supporting,
maintaining, and promoting such facilities owned, operated, or leased by or to the local
coliseum and exhibit hall authority or a downtown development authority; or (C) for
some combination of such purposes; provided, however, that at least 50 percent of the
total taxes collected at the rate of 8 percent shall be expended for the purposes specified
in subparagraph (B) of this paragraph. Amounts so expended shall be expended only
through a contract or contracts with the state, a department of state government, a state
authority, a convention and visitors bureau authority created by local Act of the General
Assembly for a municipality, a local coliseum and exhibit hall authority, a downtown development authority, or a private sector nonprofit organization or through a contract or contracts with some combination of such entities, notwithstanding any provision of paragraph (8) of this subsection to the contrary. The aggregate amount of all excise taxes imposed under this paragraph and all sales and use taxes, and other taxes imposed by a county or municipality, or both, shall not exceed 14 percent; provided, however, that any sales tax for educational purposes which is imposed pursuant to Article VIII, Section VI, Paragraph IV of the Constitution shall not be included in calculating such limitation. Any tax levied pursuant to this paragraph shall terminate not later than December 31, 2028, provided that during any period during which there remains outstanding any obligation issued to fund a facility as contemplated by this paragraph, secured in whole or in part by a pledge of a tax authorized under this Code section, the powers of the counties and municipalities to impose and distribute the tax imposed by this paragraph shall not be diminished or impaired by the state, and no county or municipality levying the tax imposed by this paragraph shall cease to levy the tax in any manner that will impair the interests and rights of the holder of any such obligation. This proviso shall be for the benefit of the holder of any such obligation and, upon the issuance of any such obligation by a local coliseum and exhibit hall authority or a downtown development authority, shall constitute a contract with the holder of such obligation. Notwithstanding any other provision of this Code section to the contrary, as used in this paragraph, the term: ‘fund’ or ‘funding’ shall include the cost and expense of all things deemed necessary by a local coliseum and exhibit hall authority or a downtown development authority for the construction and operation of a facility or facilities, including, but not limited to, the study, operation, marketing, acquisition, construction, financing, including the payment of principal and interest on any obligation of the local coliseum and exhibit hall authority or the downtown development authority and any obligation of the local coliseum and exhibit hall authority or the downtown development authority to refund any prior obligation of the local coliseum and exhibit hall authority or the downtown development authority, development, extension, enlargement, or improvement of land, waters, property, streets, highways, buildings, structures, equipment, or facilities, and the repayment of any obligation incurred by an authority in connection therewith; ‘obligation’ shall include bonds, notes, or any instrument creating an obligation to pay or reserve moneys and having an initial term of not more than 37 years; ‘facility’ or ‘facilities’ shall mean any of the buildings, structures, and facilities described in subparagraph (B) of this paragraph and any associated parking areas or improvements originally owned or operated incident to the ownership or operation of such facility used for any purpose or purposes specified in subparagraph (B) of this paragraph by a local coliseum and exhibit hall authority.
hall authority or a downtown development authority; and 'downtown development
authority' shall mean a downtown development authority created by local Act of
the General Assembly for a municipality pursuant to a local constitutional amendment."

PART III

SECTION 3-1.

The General Assembly recognizes that the communications industry has become increasingly
competitive and that the distinctions among the providers of the various types of
communications services have become blurred. The General Assembly desires to treat
similar services consistently under the tax laws of this state. Accordingly, the General
Assembly finds that it is no longer appropriate for the providers of certain types of
communications services to be required to pay a myriad of local taxes, licenses, and fees
while other communications services providers are not required to pay some or all of such
taxes, licenses, and fees. The General Assembly finds, however, that it is in the best interests
of the state and its political subdivisions that the tax revenues available to such political
subdivisions not be diminished by the elimination of certain local taxes, licenses, and fees
imposed on communications services providers and that a state level communications
services tax imposed equitably on communications services is expected at a minimum to
provide to each such political subdivision comparable tax revenues to the local taxes,
licenses, and fees that should be eliminated. The General Assembly further finds that, in
order to promote investment in Georgia's communications infrastructure and since the
communications services sold will be taxed, the equipment purchased to provide such
communications services should be exempt from state and local sales tax. The General
Assembly further finds that a state-wide communications services tax in lieu of other taxes
on communications would promote simplicity, uniformity, and efficiency in the
administration of and compliance with the taxes on communications services which is in the
best interests of the state. The General Assembly further finds that the sale, purchase, use,
or provision of Internet access service should not be subject to any tax or fee imposed by this
state, or any of its political subdivisions, to promote Internet access service availability for
all Georgians and to encourage deployment of broadband infrastructure to underserved areas
of this state.

SECTION 3-2.

This part of this Act shall be known and may be cited as the "Georgia Communications
Services Tax Act."
SECTION 3-3.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended in Code Section 48-8-2, relating to definitions regarding sales and use tax, by revising paragraphs (31), (34), (34.1), and (39) and by adding new paragraphs to read as follows:

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

"(5.1) 'Communications services' means telecommunications services, ancillary services, and video programming services. The term shall not include Internet access service."

"(11.2) 'Digital code' means a code which provides a purchaser with a right to obtain one or more such products having the same tax treatment. A digital code may be obtained by any means, including e-mail or by tangible means regardless of its designation as 'song code,' 'video code,' or 'book code.'"

"(11.3) 'Digital audio works' means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones. For purposes of the definition of 'digital audio works,' 'ringtones' means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication."

"(11.4) 'Digital audio-visual works' means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any."

"(11.5) 'Digital books' means works that are generally recognized in the ordinary and usual sense as books."

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

"(16.1) 'Internet access service' means a service that enables users to connect to the Internet to access content, information, or other services offered over the Internet, without regard to whether such service is referred to telecommunications, communications, transmission, or similar service, and without regard to whether a provider of such service is subject to regulation by the Georgia Public Service Commission or the Federal Communications Commission. The term includes the purchase, use, or sale of communications services by a provider of Internet access service to the extent such communications services are purchased, used, or sold to provide Internet access service, regardless of the level of such service, or to otherwise enable users to access content, information, or other services offered over the Internet."
"(18.1) 'Mobile telecommunications service' has the same meaning given to such term in Section 124(7) of the Mobile Telecommunications Sourcing Act, P.L. 106-252."

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

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

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

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

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

Charges made for participation in games and amusement activities;

Sales of tangible personal property to persons for resale when there is a likelihood that the state will lose tax funds due to the difficulty of policing the business operations because:

(i) Of the operation of the business;

(ii) Of the very nature of the business;

(iii) Of the turnover of so-called independent contractors;

(iv) Of the lack of a place of business in which to display a certificate of registration;

(v) Of the lack of a place of business in which to keep records;

(vi) Of the lack of adequate records;

(vii) The persons are minors or transients;

(viii) The persons are engaged in essentially service businesses; or

(ix) Of any other reasonable reason.

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

Charges, which applied to sales of telephone service, made for local exchange telephone service, except coin operated telephone service, except as otherwise provided in subparagraph (G) of this paragraph; or In the case of any bundled transaction:

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

(ii) If the price is attributable to products or services that are subject to tax at different tax rates or subject to different taxes, the total price may be treated as attributable to the products or services subject to tax at the higher tax higher rate or the higher-rate tax unless the provider can identify by reasonable and verifiable standards the portion of the price attributable to the products or services subject to tax at the lower rate or the lower-rate tax from the provider's books and records that are kept in the regular course of business for other purposes, including, but not limited to, nontax purposes.”
"(34)(A) 'Sales price' applies to the measure subject to sales tax and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise without any deduction for the following:

(i) The seller's cost of the property sold;
(ii) The cost of materials used, labor, or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
(iii) Charges by the seller for any services necessary to complete the sale; and
(iv) Delivery charges.

(B) Sales price shall not include:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;
(ii) Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;
(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;
(iv) Installation charges if they are separately stated on the invoice, billing, or similar document given to the purchaser;
(v) Telecommunications nonrecurring charges if they are separately stated on the invoice, billing, or similar document; and
(vi) Credit for any trade-in.

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

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

(I) The purchaser presents a coupon, certificate, or other documentation to the seller to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;
(II) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount; provided, however, that a preferred customer card that is available to any patron shall not constitute membership in such a group; or 

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

"(34.1) Reserved 'Specified digital products' means electronically transferred digital audio-visual works, digital audio works, and digital books."

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

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

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

(C) Tangible personal property;

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

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

(F) Internet access service;

(G) Radio and television audio and video Video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services shall include but not be limited to cable service as defined in 47 U.S.C. Section 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. Section 20.3;

(H) Ancillary services; or

(I) Digital products delivered electronically, including but not limited to software, music, video, reading materials, or ring tones."
"(39.2) 'Transferred electronically' means obtained by the purchaser by means other than tangible storage media. For purposes of this Code section, it is not necessary that a copy of the product be physically transferred to the purchaser. A product will be considered to have been transferred electronically to a purchaser if the purchaser has access to the product."

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

(A) Cable service, as defined in Section 602(6) of the Communications Act of 1934 (47 U.S.C. Section 522);
(B) Interactive on-demand service, as defined in Section 602(12) of such Act (47 U.S.C. Section 522);
(C) The provision of video programming by a multichannel video programming distributor, as defined in paragraphs (20) and (13) of Section 602 of such Act (47 U.S.C. Section 522);
(D) The distribution of audio or video programming by providers of mobile service, as defined in Section 20.3 of Title 47 of the Code of Federal Regulations, when such service is offered for purchase by subscribers or customers of such service;
(E) Digital audio works sold to an end user with rights of less than permanent use, regardless of whether the end user is required to make continued payments for such rights; and
(F) Digital audio-visual works sold to an end user with rights of less than permanent use, regardless of whether the end user is required to make continued payments for such rights."

SECTION 3-4.

Said Title 48 is further amended in Code Section 48-8-3, relating to exemptions from sales and use taxes, by replacing "; or" with a semicolon at the end of paragraph (94), by replacing the period at the end of paragraph (95) with "; or", and by adding new paragraphs to read as follows:

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

(97)(A) Sales of equipment used in the business of providing communications services in this state.
The term 'equipment used in the business of providing communications services' means all equipment, machinery, software, or other infrastructure that is used in whole or in part in producing, broadcasting, distributing, sending, receiving, storing, transmitting, retransmitting, amplifying, switching, or routing communications services or Internet access services, including the monitoring, testing, maintaining, enabling, or facilitating of such equipment, machinery, software, or other infrastructure. Such term includes, but is not limited to, wires, cables, antennas, poles, switches, routers, amplifiers, rectifiers, repeaters, receivers, multiplexers, duplexers, transmitters, power equipment, backup power equipment, diagnostic equipment, storage devices, modems, and other general central office equipment, such as channel cards, frames, and cabinets.

SECTION 3-5.
Said Title 48 is further amended by revising Code Section 48-8-32, relating to collectability and rates of sales and use tax, as follows:

"48-8-32. The tax at the rate of 4 percent of the retail sales price at the time of sale or 4 percent of the purchase price at the time of purchase, as the case may be, shall be collectable at the rate specified in Code Section 48-8-30 from all persons engaged as dealers in the sale at retail, or in the use, consumption, distribution, or storage for use or consumption in this state of tangible personal property, prepaid calling service, and prepaid wireless calling service."

SECTION 3-6.
Said Title 48 is further amended in Code Section 48-8-39, relating to the effect of certain use of sales tax certificates, by revising subsection (a) as follows:

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

SECTION 3-7.
Said Title 48 is further amended in Code Section 48-8-42, relating to credit for taxes paid in other states, by adding a new subsection to read as follows:

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

SECTION 3-8.
Said Title 48 is further amended by repealing subsection (e) of Code Section 48-8-77, relating to sourcing of local telecommunications services.

SECTION 3-9.
Said Title 48 is further amended by adding a new Code section to read as follows:

"48-8-78.
(a) As used in this chapter and Chapter 18 of this title, the term:
(1) 'Air-to-ground radiotelephone service' means a radio service, as that term is defined in 47 C.F.R. 22.99, in which common carriers are authorized to offer and provide radio telecommunications services for hire to subscribers in an aircraft.
(2) 'Call-by-call basis' means any method of charging for telecommunications services where the price is measured by individual calls.
(3) 'Communications channel' means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.
(4) 'Customer' means the person or entity that contracts with the seller of telecommunications services. If the end user of the telecommunications services is not the contracting party, the end user of the telecommunications services is the customer of the telecommunications services but only for the purpose of sourcing sales of telecommunications services. The term customer shall not include a reseller of telecommunications services or for mobile telecommunications service of a serving..."
carrier under an agreement to serve the customer outside the home service provider's licensed service area.

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

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

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

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

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

(10) 'Service address' means:

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

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

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

(b) The provisions of this Code section are solely for the purposes of sourcing communications services, the taxability of which is governed by this chapter with respect

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to prepaid calling services and prepaid wireless calling services and Chapter 18 of this title
with respect to all other communications services.

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

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

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

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

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

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

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

(A) Air-to-ground radiotelephone service shall be sourced to this state if the customer's
place of primary use is located in this state;

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

(i) The seller's telecommunications system; or

(ii) Information received by the seller from its service provider, where the system
used to transport such signal is not that of the seller;

(C) Private communications service shall be sourced to this state under the following
rules:

(i) Service for a separate charge related to a customer channel termination point shall
be sourced to this state if the customer channel termination point is located in this
state;

(ii) Service for a separate charge for the use of a channel that is exclusively between
two channel termination points located in this state shall be sourced to this state; and

(iii) Where channel termination points of a channel are located both within and
outside this state:

(I) Fifty percent of any separate charge for a segment of a channel between two
such channel termination points; and
(II) To the extent that the charge for any segment or segments of a channel is not
separately billed, an amount equal to the total charge for such channel segment or
segments multiplied by a fraction, the numerator of which is the number of channel
termination points located in this state and the denominator of which is the total
number of channel termination points; and

(D) A sale of prepaid calling service or a sale of prepaid wireless calling service shall
be sourced in accordance with subsection (b) of Code Section 48-8-77; provided,
however, that in the case of a sale of prepaid wireless calling service, the rule provided
in subparagraph (b)(1)(E) of Code Section 48-8-77 shall include as an option the
location associated with the mobile telephone number.

(d) All communications services other than telecommunications services shall be sourced
to the customer's place of primary use if located in this state."

SECTION 3-10.

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

"CHAPTER 18

48-18-1.

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

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

(2) A state tax on communications services other than direct broadcast satellite service
at a rate of 5 percent; and

(3)(A) A local tax on communications services other than direct broadcast satellite
service at the rate of 2 percent.

(B) Where a county fails to comply with the requirements of subsection (e) of Code
Section 48-18-5, then the tax imposed by this paragraph within the unincorporated area
of such county shall be an additional 2 percent state tax on communications services
other than direct broadcast satellite service.

(C) Where a municipality located in a county described in subparagraph (B) of this
paragraph fails to comply with the requirements of subsection (e) of Code Section
48-18-5, then the tax imposed by this paragraph within such municipality shall be an
additional 2 percent state tax on communications services other than direct broadcast
satellite services.

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(b) It is the intent of the legislature that a total combined state and local tax rate of 7 percent shall be imposed on all communications services throughout the state.

c) The tax imposed by this chapter shall be paid by the person paying for such communications services and shall be collected from such person by the retailer and remitted to the department pursuant to Code Section 48-18-5.

d) No sale of communications services shall be taxable to the person furnishing the communications services which is not taxable to the purchaser of the communications services.

e) The sales price paid for the retail purchase of communications services shall not include amounts paid for or attributable to:

1. Communications services which are resold, used as a component part of, or integrated into a communications service provided to the ultimate retail purchaser who originates or terminates the taxable end-to-end communication, including, but not limited to, carrier access charges, right of access charges, interconnection charges paid by the providers of mobile telecommunications services or other communications services, charges paid by cable or video service providers for the transmission of video or other programming by another communications services provider over facilities owned or operated by such other communications services provider, charges for the sale of unbundled network elements, and charges for use of intercompany facilities;

2. Coin operated telephone service;

3. Communications services provided to any person or entity exempt from the tax imposed by Chapter 8 of this title;

4. Discounts, bad debts, taxes, or any other deduction to the extent allowed as a deduction under Chapter 8 of this title;

5. Prepaid calling service, prepaid wireless calling service, tangible personal property, or services subject to tax pursuant to Chapter 8 of this title; or

6. Communications services or transactions among entities under 50 percent or greater, direct or indirect, common control.

(f) A retailer of communications services may combine the taxes due under this chapter and Chapter 8 of this title as a single line item on the retailer's invoice to a purchaser of communications services.

48-18-2.

(a) Notwithstanding any provision of law to the contrary, with respect to sales of telecommunications services to any person for use in the operation of one or more call centers, the state tax imposed by this chapter shall not exceed $12,500.00 per calendar year and the local tax imposed by this chapter shall not exceed $12,500.00 per calendar year.
(b) The limitation set forth in subsection (a) of this Code section shall apply only to holders of a direct payment number issued by the department. In order to obtain such direct payment number, the applicant shall establish that the applicant satisfies the criteria for a call center as defined in paragraph (4.1) of Code Section 48-8-2.

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

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

48-18-3.

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

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

48-18-4.

All procedural and administrative provisions of Chapters 2 and 8 of this title, including those which set forth the limitations periods and procedures for assessment, collection, refunds, and credits, and those which fix penalties and interest for nonpayment of tax and for noncompliance with the provisions of this title, and all other requirements and duties imposed upon the taxpayer, shall apply to all taxpayers liable for the communications services tax imposed under the provisions of this chapter and to all providers of communications services required to collect and remit such taxes. In addition, all definitions, sourcing rules, customer remedy rules, and bundled transaction rules, which have been enacted in compliance with the Streamlined Sales and Use Tax Agreement and codified in Chapter 8 of this title, shall apply to the communications services tax imposed under the provisions of this chapter. The commissioner shall exercise all power and authority and perform all duties with respect to persons obligated under this chapter as are provided in Chapters 2 and 8 of this title, except where there is a conflict, in which case, the provisions of this chapter shall control. The commissioner may from time to time make such rules and regulations not inconsistent with this chapter as may be deemed necessary to carry out its provisions.
48-18-5.

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

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

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

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

(A) Each municipality or county that has complied with the requirements of subsection (e) of this Code section shall receive an amount equal to the average monthly revenues that were received from communications services providers during 2013 by such municipality or county pursuant to taxes, charges, and fees, other than local option sales taxes prohibited by Code Section 48-8-6, which were validly imposed and in effect during that time. All or part of the proceeds received by a county pursuant to this subparagraph may be expended for services provided within the unincorporated area of the county including within any special district created by a county for the provision of services in all or parts of the unincorporated area of the county; and

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

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

(ii) Each county that has complied with the requirements of subsection (e) of this Code section shall receive an amount equal to such remaining amount multiplied by a fraction, the numerator of which is the sum of the population within the unincorporated areas of such county and the denominator of which is the total population of this state, using the most recent annual estimates of the population of cities and counties in Georgia as prepared by the United States Bureau of the Census.
(d)(1) Each county and municipality that received in 2013 taxes, charges, or fees, other
than local option sales taxes prohibited by Code Section 48-8-6, which were validly
imposed and in effect during that time shall report the amounts of such taxes, charges, or
fees received in 2013 to the department by October 31, 2014.

(2) Each communications services provider that paid in 2013 taxes, charges, or fees,
other than local option sales taxes prohibited by Code Section 48-8-6, shall report the
amount of such taxes, charges, or fees paid in 2013 to the department by October 31,
2014.

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

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

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

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

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

(4) If a county or municipality does not file with the department a certified copy of the
pertinent parts of all ordinances, resolutions, and amendments thereto which levy the 3.5
percent tax on communications services other than direct broadcast satellite service as
required in paragraph (1) of this subsection, or if a county or municipality does not
provide the department with the amounts of taxes, charges, or fees received in 2013, as
required in paragraph (1) of subsection (d) of this Code section, the department shall
upon receipt of such information distribute such funds on the first day of the next
succeeding calendar quarter.

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

(g) The state auditor shall annually review the disbursements pursuant to paragraph (2) of
subsection (c) of this Code section for each fiscal year. The state auditor shall issue such
state auditor's findings to the Governor on or before December 31 of each year, and a copy
shall be posted on the state auditor's website.
(a)(1) For purposes of this subsection, the term 'providers of communications services' shall include parties providing infrastructure directly involved in the transmission, receipt, or processing of radio waves or electrical signals used in the provision or provisioning of communications services. Infrastructure shall include, but not be limited to, towers, poles, and other structures of whatever kind to which are attached antennas or other equipment for the transmission or receipt of radio waves or electrical signals, as well as fixtures necessary to affix antennas or other equipment to such towers, poles, or structures. Infrastructure shall not include residences or commercial or industrial buildings. Parties providing infrastructure are considered providers of communications services only to the extent of their provision or provisioning of such infrastructure.

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

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

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

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

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

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

(B) Measured by the amounts charged or received for services, the type of equipment or facilities deployed, or otherwise;

(C) Intended as compensation for the use of public rights of way, the right to conduct business, or otherwise; or

(D) Permitted or required to be separately stated on the customer's bill.
(4) This subsection shall not apply to:

(A) Ad valorem taxes levied pursuant to Chapter 5 of this title;

(B) Emergency telephone surcharges;

(C) Amounts charged for the rental or other use of property owned by a public body which is not in the public rights of way to a provider of communications services for any purpose, including, but not limited to, the placement or attachment of equipment used in the provision of communications services;

(D) Amounts charged for the rental of space on a utility pole or tower owned by a political subdivision of this state, whether in the public right of way or not, for the attachment of equipment used in the provision of communications services;

(E) Permit fees generally imposed and applicable to a majority of all other businesses, which are not related to placing or maintaining facilities in or on public roads or rights of way;

(F) Taxes, charges, and fees which are ordinary and generally applicable which are validly levied and required to be paid by a person in a capacity other than its capacity as a provider of communications services. Such taxes, charges, and fees include, by way of example, and are not limited to, taxes, charges, and fees for water, sewer, electricity, sanitation, police, fire, or other such services, or any special district, community improvement district, or similar such district services, or any taxes, fees, or assessments imposed to pay bonded indebtedness;

(G) Taxes imposed pursuant to paragraph (3) of subsection (a) of Code Section 48-18-1;

(H) Zoning, construction, and similar application fees, provided such fees do not exceed the lower of either the actual direct cost incurred by the county or municipality in the review of such applications or the amount generally imposed by the county or municipality for zoning, construction, and similar applications; and

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

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

(b) In establishing guidelines and conditions for placing, constructing, repairing, or maintaining communications lines or facilities over, on, under, through, or along any public highways, public roads, public streets, or other public places or rights of way, neither the state nor any agency or political subdivision thereof shall discriminate between or among communications services providers in violation of Section 253(c) of the Communications Act of 1934, 47 U.S.C. Section 253(c).
SECTION 3-11.

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

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

"(8) 'Gross revenues' means all revenues received from subscribers for the provision of cable service or video service, including franchise fees for cable service providers and video service providers, and advertising and home shopping services revenues and shall be determined in accordance with generally accepted accounting principles. Gross revenues shall not include:

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

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

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

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

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

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

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

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

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

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

SECTION 3-12.

Said Title 36 is further amended by revising subsection (c) and paragraphs (4) and (8) of subsection (g) of Code Section 36-76-4, relating to application process for a state franchise, as follows:

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

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

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

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

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

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

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

(8) Each holder of a state franchise shall have the obligation to provide access to the same number of PEG channels pursuant to Code Section 36-76-8 and the additional PEG support cash payments specified in this paragraph for PEG access facilities in a service area as the incumbent service provider with the most subscribers in such service area as of January 1, 2007, which obligation shall continue until the local franchise would have expired under its own terms as specified in paragraph (4) of this subsection; provided, however, that if a local franchise would have expired before July 1, 2012, the holder of a state franchise shall continue to provide access to the same number of PEG channels until July 1, 2012, as provided in paragraph (5) of this subsection. To the extent such incumbent service provider provides PEG access support during said period in the form of periodic payments to the municipal or county governing authority equal to a percentage of gross revenue or a prescribed per subscriber amount, the state franchise holder shall be obligated to make the same periodic payments to the governing authority at the same time and equal to the same percentage of gross revenue or prescribed per subscriber amount. To the extent such incumbent service provider provides PEG access support to the applicable governing authority during said period in the form of a lump sum payment that remains unsatisfied as of January 1, 2008, the holder of a state franchise shall be obligated to provide a lump sum payment to said authority based on its proportion of the total number of cable service and video service subscribers of all service providers in such service area. No payments shall be due under this paragraph until the
municipality or county notifies the respective providers, in writing, of the percentage of
gross revenues, the per subscriber amount, or the lump sum payment amount and the
expiration date of the local franchise obtaining such obligations. The holder of a state
franchise may designate that portion of the subscriber's bill attributable to any fee
imposed pursuant to this paragraph as a separate item on the bill and recover such amount
from the subscriber.”

SECTION 3-13.

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

“36-76-6.

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

(2) Each affected local governing authority or its authorized designee shall provide
written notice to the Secretary of State and each applicant for or holder of a state
franchise with a service area located within that affected local governing authority's
jurisdiction of the franchise fee rate that applies to the applicant for or holder of such state
franchise. The applicant for or holder of a state franchise shall start assessing the
franchise fee within 15 days of receipt of written notice from the affected local governing
authority or its authorized designee and shall not be required to pay such franchise fee
until the expiration of 15 days after receipt of such written notice. Any incumbent service
provider who obtains a state franchise under paragraph (1) of subsection (g) of Code
Section 36-76-4 shall pay its existing franchise fee during the 15 day period after receipt
of written notice of the new fee. The franchise fee rate shall be uniformly applicable to
table service providers and video service providers that obtain a state franchise within
the affected local governing authority. For purposes of this Code section, an authorized
designee is an agent authorized by charter or other act of the affected local governing
authority:

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

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

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

2. The amount of the franchise fee payment due to such municipality or county.

In the event that franchise fees are not paid on or before the dates specified above, then the affected local governing authority shall provide written notice to the franchise holder giving the cable service provider or video service provider 15 days from the date of the franchise holder’s receipt of such notice to cure any such nonpayment. In the event franchise fees are not remitted to the affected local government authority postmarked on or before the expiration of the 15 day cure period, then the holder of the state franchise shall pay interest thereon at a rate of 1 percent per month to the affected local governing authority. If the 15 day cure period expires on Saturday, Sunday, or a legal holiday, the due date shall be the next business day. Moreover, the franchise holder shall not be assessed interest on late payments if franchise payments were submitted in error to a neighboring local governing authority.

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

(d) The statements made pursuant to subsection (b) of this Code section and any records
or information furnished or disclosed by a cable service provider or video service provider
to an affected local governing authority pursuant to subsection (c) of this Code section shall
be exempt from public inspection under Article 4 of Chapter 18 of Title 50:

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

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

(g) The holder of a state franchise may designate that portion of a subscriber's bill
attributable to any franchise fee imposed pursuant to this Code section as a separate item
on the bill and recover such amount from the subscriber; provided, however, that such
separate listing shall be referred to as a 'franchise' or a 'franchise fee'.

(h) No affected local governing authority shall levy any additional tax, license, fee,
surcharges, or other assessment on a cable service provider or video service provider for or
with respect to the use of any public right of way other than the franchise fee authorized
by this Code section. Nor shall an affected local governing authority levy any other tax,
license, fee, or assessment on a cable service provider or video service provider or its
subscribers that is not generally imposed and applicable to a majority of all other
businesses. The franchise fee authorized by this Code section shall be in lieu of any permit
fee, encroachment fee, degradation fee, or other fee that could otherwise be assessed on a
state issued franchise holder for the holder's occupation or work within the public right-of
way; provided, however, that nothing in this Code section shall restrict the right of any
municipal or county governing authority to impose ad valorem taxes, sales taxes, or other
taxes lawfully imposed on a majority of all other businesses within such municipality or
county Reserved.”
SECTION 3-14.

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

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

SECTION 3-15.

Title 46 of the Official Code of Georgia Annotated, relating to public utilities, is amended by revising Code Section 46-5-1, relating to exercise of eminent domain by telephone companies, as follows:

46-5-1.

(a)(1) Any telephone company chartered by the laws of this or any other state shall have the right to construct, maintain, and operate its lines and facilities upon, under, along, and over the public roads and highways and rights of way of this state with the approval of the county or municipal authorities in charge of such roads, highways, and rights of way. The approval of such municipal authorities shall be limited to the process set forth in paragraph (3) of subsection (b) of this Code section, and the approval of the county shall be limited to the permitting process set forth in subsection (c) of this Code section. Upon making due compensation, as defined for municipal authorities in paragraph (9) of subsection (b) of this Code section and as provided for counties in subsection (c) of this Code section, a telephone company shall have the right to construct, maintain, and operate its lines through or over any lands of this state; on, along, and upon the right of way and structures of any railroads; and, where necessary, under or over any private lands; and, to that end, a telephone company may have and exercise the right of eminent domain.

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

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

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

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

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

(5) No county or municipal authority shall impose upon a telephone company any build-out requirements on network construction or service deployment, and, to the extent that a telephone company has elected alternative regulation pursuant to Code Section 46-5-165, such company may satisfy its obligations pursuant to paragraph (2) of Code Section 46-5-169 by providing communications services, at the company's option, through any affiliated companies and through the use of any technology or service arrangement; provided, however, that such company shall remain subject to its obligations as set forth in paragraphs (4) and (5) of Code Section 46-5-169. The obligations required pursuant to paragraph (2) of Code Section 46-5-169 shall not apply to a telephone company that has elected alternative regulation pursuant to Code Section 46-5-165 and does not receive distributions from the Universal Access Fund as provided for in Code Section 46-5-167.

(b)(1) Except as set forth in paragraph (6) of this subsection, any telephone company that places or seeks to place lines and facilities in the public roads and highways or rights of way of a municipal authority shall provide to such municipal authority the following information:

(A) The name, address, and telephone number of a principal office and local agent of such telephone company;

(B) Proof of certification from the Georgia Public Service Commission of such telephone company to provide telecommunications services in this state;

(C) Proof of insurance or self-insurance of such telephone company adequate to defend and cover claims of third parties and of municipal authorities;
(D) A description of the telephone company’s service area, which description shall be sufficiently detailed so as to allow a municipal authority to respond to subscriber inquiries. For the purposes of this paragraph, a telephone company may, in lieu of or as a supplement to a written description, provide a map on 8 1/2 by 11 inch paper that is clear and legible and that fairly depicts the service area within the boundaries of the municipal authority. If such service area is less than the boundaries of an entire municipal authority, the map shall describe the boundaries of the geographic area to be served in clear and concise terms;

(E) A description of the services to be provided;

(F) An affirmative declaration that the telephone company shall comply with all applicable federal, state, and local laws and regulations, including municipal ordinances and regulations, regarding the placement and maintenance of facilities in the public rights of way that are reasonable, nondiscriminatory, and applicable to all users of the public rights of way, including the requirements of Chapter 9 of Title 25, the ‘Georgia Utility Facility Protection Act’; and

(G) A statement in bold type at the top of the application as follows: 'Pursuant to paragraph (2) of subsection (b) of Code Section 46-5-1 of the Official Code of Georgia Annotated, the municipal authority shall notify the applicant of any deficiencies in this application within 15 business days of receipt of this application.'

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

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

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

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

(6) Any telephone company that has previously obtained permits for the placement of
its facilities, has specified the name of such telephone company in such permit
application, has previously placed its facilities in any public right of way, and has paid
and continues to pay any applicable municipal authority's occupational license taxes,
permit fees, franchise fees, except as set forth in paragraph (8) of this subsection, or, if
applicable, county permit fees shall be deemed to have complied with this Code section
without any further action on the part of such telephone company except as set forth in
paragraphs (8), (9), (14), and (15) of this subsection.

(7) Any telephone company that has placed lines and facilities in the public roads and
highways or rights of way of a municipal authority without first obtaining permits or
otherwise notifying the appropriate municipal authority of its presence in the public roads
and highways or rights of way shall provide the information required by paragraph (1)
of this subsection, if applicable, to such municipal authority on or before October 1, 2008.
As of October 1, 2008, if any telephone company, other than those who meet the
requirements of paragraph (6) of this subsection, has failed or fails to provide the
information required by paragraph (1) of this subsection to the municipal authority in
which its lines or facilities are located, such municipal authority shall provide written
notice to such telephone company giving that company 15 calendar days from the date
of receipt of such notice to comply with this subsection. In the event the 15 calendar day
cure period expires without compliance, such municipal authority may petition the
Georgia Public Service Commission which shall, after an opportunity for a hearing, order
the appropriate relief.

(8)(A) In the event any telephone company has an existing, valid municipal franchise
agreement as of January 1, 2008, the terms and conditions of such existing franchise
agreement, with the exception of any imposition of taxes, charges, or fees prohibited
pursuant to Code Section 48-18-6, shall only remain effective and enforceable until the
expiration of the existing agreement or December 31, 2015, whichever shall first
occur.

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

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

(A) Basic local service revenue, as defined in 47 C.F.R. 32.5000;
(B) Basic area revenue, as defined in 47 C.F.R. 32.5001;
(C) Optional extended area revenue, as defined in 47 C.F.R. 32.5002;
(D) Public telephone revenue, as defined in 47 C.F.R. 32.5010;
(E) Local private line revenue, as defined in 47 C.F.R. 35.5040; provided, however, that the portion of such accounts attributable to audio and video program transmission service where both terminals of the private line are within the corporate limits of the municipal authority shall not be included;
(F) Other local exchange revenue, as defined in 47 C.F.R. 32.5060;
(G) Local exchange service, as defined in 47 C.F.R. 32.5069;
(H) Network access revenue, as defined in 47 C.F.R. 32.5080;
(I) Directory revenue, as defined in 47 C.F.R. 32.5220; provided, however, that the portion of such accounts attributable to revenue derived from listings in portion of directories not considered white pages shall not be included;
(J) Nonregulated operating revenue, as defined in 47 C.F.R. 32.5280; provided, however, that the portion of such accounts attributable to revenues derived from private lines shall not be included; and
(K) Uncollectible revenue, as defined in 47 C.F.R. 32.5300.

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

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

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

(12) Each municipal authority may, no more than once annually, audit the business records of a telephone company to the extent necessary to ensure payment in accordance with this Code section. As used in this Code section, ‘audit’ means a comprehensive review of the records of a company which is reasonably related to the calculation and payment of due compensation. Once any audited period of a company has been the subject of a requested audit, such audited period of such company shall not again be the subject of any audit. In the event of a dispute concerning the amount of due compensation due to an affected municipal authority under this Code section, an action may be brought in a court of competent jurisdiction by an affected municipal authority seeking to recover an additional amount alleged to be due or by a company seeking a refund of an alleged overpayment; provided, however, that any such action shall be brought within three years following the end of the quarter to which the disputed amount relates, although such time period may be extended by written agreement between the company and such affected municipal authority. Each party shall bear the party’s own costs incurred in connection with any dispute. The auditing municipal authority shall bear the cost of the audit; provided, however, that if an affected municipal authority files an action to recover alleged underpayments of due compensation and a court of competent jurisdiction determines the company has underpaid due compensation due for any 12 month period by 10 percent or more, such company shall be required to pay such
municipal authority’s reasonable costs associated with such audit along with any due compensation underpayments; provided, further, that late payments shall not apply. All undisputed amounts due to a municipal authority resulting from an audit shall be paid to the municipal authority within 45 days, or interest shall accrue.

(13) The information provided pursuant to paragraph (1) of this subsection and any records or information furnished or disclosed by a telephone company to an affected municipal authority pursuant to paragraph (12) of this subsection shall be exempt from public inspection under Article 4 of Chapter 18 of Title 50. It shall be the duty of such telephone company to mark all such documents as exempt from Article 4 of Chapter 18 of Title 50, and the telephone company shall defend, indemnify, and hold harmless any municipal authority and any municipal officer or employee in any request for, or in any action seeking, access to such records.

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

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

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

(17) Nothing in this Code section shall affect the authority of a municipal authority to require telephone companies accessing the public roads and highways and rights of way of a municipal authority to obtain permits and otherwise comply with the reasonable regulations established pursuant to paragraph (10) of subsection (a) of Code Section 32-4-92.

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

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

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

PART IV

SECTION 4-1.

(a) This Act shall become effective on January 1, 2016, and shall be applicable to all taxable years beginning on or after that date.

(b) Tax, penalty, and interest liabilities and refund eligibility for prior taxable years shall not be affected by the passage of this Act and shall continue to be governed by the provisions of the Official Code of Georgia Annotated as it existed immediately prior to the effective date of this Act.

(c) This Act shall not abate any prosecution, punishment, penalty, administrative proceedings or remedies, or civil action related to any violation of law committed prior to January 1, 2016.

SECTION 4-2.

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