The Senate Committee on Transportation offers the following substitute to HB 106:

A BILL TO BE ENTITLED
AN ACT

To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to provide for the process of calling for an election regarding the levy of a special district transportation sales and use tax upon the expiration of such tax or the failure to levy such tax; to provide for a levy of up to 1 percent; to authorize the imposition of a transportation special purpose local option sales and use tax by counties not currently levying a special district transportation sales and use tax; to provide for definitions, procedures, conditions, and limitations for the imposition, collection, disbursement, and termination of the tax; to provide for powers, duties, and authority of the state revenue commissioner; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising subsection (d) of and adding a new subsection to Code Section 48-8-241, relating to the creation of special districts and the tax rate for purposes of a transportation sales and use tax, as follows:

"(d) Any Except as otherwise provided in subsection (e) of this Code section, any tax imposed under this article shall be at the rate of 1 percent. Except as to rate, a tax imposed under this article shall correspond to the tax imposed by Article 1 of this chapter. No item or transaction which is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed under this article, except that a tax imposed under this article shall not apply to:

(1) The sale or use of any type of fuel used for off-road heavy-duty equipment, off-road farm or agricultural equipment, or locomotives;

(2) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport;
(3) The sale or use of fuel that is used for propulsion of motor vehicles on the public highways. For purposes of this paragraph, a motor vehicle means a self-propelled vehicle designed for operation or required to be licensed for operation upon the public highways;

(4) The sale or use of energy used in the manufacturing or processing of tangible goods primarily for resale; or

(5) For motor fuel as defined under paragraph (9) of Code Section 48-9-2 for public mass transit.

The tax imposed pursuant to this article shall only be levied on the first $5,000.00 of any transaction involving the sale or lease of a motor vehicle. The tax imposed pursuant to this article shall be subject to any sales and use tax exemption which is otherwise imposed by law; provided, however, that the tax levied by this article shall be applicable to the sale of food and food ingredients as provided for in paragraph (57) of Code Section 48-8-3.

(e) Any tax imposed under this article on or after July 1, 2015, may be at a rate of up to 1 percent but shall not be more than 1 percent. Any rate less than 1 percent shall be in an increment of .05 percent. This subsection shall not apply to taxes under this article imposed or to be imposed under resolutions and ordinances adopted prior to July 1, 2015."

SELECTION 2.

Said title is further amended by revising paragraph (12) of Code Section 48-8-242, relating to definitions relative to Special District Transportation Sales and Use Tax, as follows:

"(12) ‘Special Regional Transportation Funding Election Act’ means an Act specifically and exclusively enacted for the purpose of ordering that a referendum be held for the reimposition of the special district transportation sales and use tax within the region that includes the districts, in their entirety or any portion thereof, of the members from a local legislative delegation in the General Assembly. A majority of the signatures of the legislative delegation for a majority of the counties within the region shall be required for the bill to be placed upon the local calendar of each chamber. This method shall be exclusively used for this purpose and no other bill shall be placed or voted upon on the local calendar utilizing this method of qualification for placement thereon. This Act shall be treated procedurally by the General Assembly as a local Act and all counties within the region shall receive the legal notice requirements of a local Act. Reserved."

SELECTION 3.

Said title is further amended by revising subsection (c) of Code Section 48-8-245, relating to the collection and cessation of special district transportation sales and use tax, as follows:

"(c)(1) No more than a single 1 percent tax under this article may be collected at any time within a special district."
(2) Upon the enactment by the General Assembly of a Special Regional Transportation Funding Election Act and the adoption of resolutions by the governing bodies of a majority of the counties within a special district in which a tax authorized by this article is in effect, an election may be held for the reimposition of the tax while the tax is in effect. Proceedings for the development of an investment list and for the reimposition of a tax shall be in the same manner as provided for in Code Section 48-8-243.

(3) Following the expiration of the special district transportation sales and use tax under this article, or following a special election in which voters in a special district rejected the imposition of the tax, upon the passage by the General Assembly of a Special Regional Transportation Funding Election Act and the adoption of resolutions by the governing bodies of a majority of counties within a special district, an election may be held for the imposition of a tax under this article in the same manner as provided in this article for the initial imposition of such tax. Such subsequent election shall be held on the date of a state-wide general primary. The election superintendents shall issue the call and conduct the election in the manner authorized by general law. The development of the investment list for such special district shall follow the dates established in Code Section 48-8-243 with the years adjusted appropriately, and such schedule shall be posted on a website developed by the state revenue commissioner to be used exclusively for matters related to the special district transportation sales and use tax within 30 days of the later of the state revenue commissioner's receipt of notice from the final county governing body required to adopt a resolution or of the passage of the Special Regional Transportation Funding Election Act by the General Assembly."

SECTION 4.

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

"ARTICLE 5A

48-8-260.

As used in this article, the term:

(1) 'Dealer' means a dealer as defined in paragraph (8) of Code Section 48-8-2.

(2) 'District' means a special district created pursuant to subsection (a) of Code Section 48-8-261.

(3) 'Intergovernmental agreement' means a contract entered into pursuant to Article IX, Section III, Paragraph I of the Constitution.

(4) 'Levy' means the collection within a special district of the tax authorized pursuant to this article.
(5) 'Motor vehicle' means:
   (A) Every self-propelled vehicle designed for operation or required to be licensed for
       operation upon the public highways; and
   (B) Any other machine or mechanical contrivance using motor fuel to the extent that
       the machine or contrivance is operated upon the public highways.
(6) 'Qualified municipality' means a qualified municipality as defined in paragraph (4)
    of Code Section 48-8-110 situated wholly or partly within a district.
(7) 'Transportation purposes' means and includes roads, bridges, public transit, rails,
    airports, buses, seaports, including without limitation road, street, and bridge purposes
    pursuant to paragraph (1) of subsection (b) of Code Section 48-8-121, and all
    accompanying infrastructure and services necessary to provide access to these
    transportation facilities, including general obligation debt and other multiyear obligations
    issued to finance such purposes.

48-8-261.
(a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the
    Constitution of this state, 159 special districts are created within this state. The
    geographical boundary of each county shall correspond with and shall be conterminous
    with the geographical boundary of the 159 districts created.
(b) On or after January 1, 2017, when a county is not located within a special district with
    a special sales and use tax levied pursuant to Article 5 of this chapter and the imposition
    of a special sales and use tax for transportation purposes is authorized according to the
    procedures provided in this article within a district, the governing authority of any county
    in this state may, subject to the requirement of referendum approval and the other
    requirements of this article, impose within the district a special sales and use tax for a
    limited period of time, which tax shall be known as the transportation special purpose local
    option sales tax, the proceeds of which shall only be used for transportation purposes.

48-8-262.
(a) Prior to the issuance of the call for the referendum required by Code Section 48-8-263,
    any county that desires to levy a tax under this article shall deliver or mail a written notice
    to the mayor or chief elected official in each qualified municipality located within the
    district. Such notice shall contain the date, time, place, and purpose of a meeting at which
    the governing authorities of the county and of each qualified municipality are to meet to
    discuss possible projects for inclusion in the referendum. The notice shall be delivered or
    mailed at least ten days prior to the date of the meeting. The meeting shall be held at least
    30 days prior to the issuance of the call for the referendum.
(b)(1) Following the meeting required by subsection (a) of this Code section, the
governing authority of the county may enter into an intergovernmental agreement with
any or all qualified municipalities within the district.
(2) At a minimum, the intergovernmental agreement authorized by paragraph (1) of this
subsection shall include the following:
(A) A list of the projects and purposes qualifying as transportation purposes proposed
to be funded from the levy;
(B) The estimated or projected dollar amounts allocated for each transportation
purpose from proceeds from the levy;
(C) The procedures for distributing proceeds from the levy to qualified municipalities;
(D) A schedule for distributing proceeds from the levy to qualified municipalities
which shall include the priority or order in which transportation purposes will be fully
or partially funded;
(E) A provision that all transportation purposes included in the agreement shall be
funded from proceeds from the levy except as otherwise agreed;
(F) A provision that proceeds from the levy shall be maintained in separate accounts
and utilized exclusively for the specified purposes;
(G) Record-keeping and audit procedures necessary to carry out the purposes of this
article; and
(H) Such other provisions as the county and qualified municipalities choose to address.
(c)(1) As soon as practicable after the meeting between the governing authorities of the
county and qualified municipalities and the execution of an intergovernmental agreement,
if applicable, the governing authority of the county may by a majority vote on a
resolution offered for such purpose submit the list of transportation purposes and the
question of whether the levy should be approved to electors of the district in the next
regularly scheduled general election and shall notify the county election superintendent
within the district by forwarding to the superintendent a copy of such resolution calling
for the imposition of the levy. Such list, or a digest thereof, shall be available during
regular business hours in the office of the county clerk.
(2) The resolution authorized by paragraph (1) of this subsection shall describe:
(A) The specific transportation purposes to be funded;
(B) The approximate cost of such transportation purposes, which shall also be the
maximum amount of net proceeds to be raised by the levy; and
(C) The maximum period of time, to be stated in calendar years, for which the levy
may be levied and the rate thereof. The maximum period of time shall not exceed five
years.
(a)(1) The ballot submitting the question of the imposition of the levy to the voters within the district shall have written or printed thereon the following:

'(  ) YES  Shall a special ___ percent sales and use tax be imposed in the district consisting of _______ County for a period of time not to exceed _______ and for the raising of not more than an estimated amount of $_______ for transportation purposes?'

(2) If debt is to be issued, the ballot shall also have written or printed thereon, following the language specified by paragraph (1) of this subsection, the following:

'If imposition of the tax is approved by the voters, such vote shall also constitute approval of the issuance of general obligation debt of _______ County in the principal amount of $_________ for the above purpose.'

(b) The election superintendent shall hold and conduct the election under the same rules and regulations as govern general elections. The superintendent shall canvass the returns, declare the result of the election, and certify the result to the Secretary of State and to the commissioner. The expense of the election shall be paid from county funds. All persons desiring to vote in favor of imposing the levy shall vote 'Yes,' and all persons opposed to imposing the levy shall vote 'No.' If more than one-half of the votes cast throughout the entire district are in favor of imposing the levy, then the levy shall be imposed as provided in this article.

(c) Where such question is not approved by the voters, the county may resubmit such question from time to time upon compliance with the requirements of this article.

(d)(1) If the proposal includes the authority to issue general obligation debt and if more than one-half of the votes cast are in favor of the proposal, then the authority to issue such debt in accordance with Article IX, Section V, Paragraph I of the Constitution is given to the proper officers of the county; otherwise, such debt shall not be issued. If the authority to issue such debt is so approved by the voters, then such debt may be issued without further approval by the voters.

(2) If the issuance of general obligation debt is included and approved as provided in this Code section, then the governing authority of the county may incur such debt either through the issuance and validation of general obligation bonds or through the execution of a promissory note or notes or other instrument or instruments. If such debt is incurred through the issuance of general obligation bonds, such bonds and their issuance and validation shall be subject to Articles 1 and 2 of Chapter 82 of Title 36 except as specifically provided otherwise in this article. If such debt is incurred through the execution of a promissory note or notes or other instrument or instruments, no validation proceedings shall be necessary, and such debt shall be subject to Code Sections 36-80-10.
through 36-80-14 except as specifically provided otherwise in this article. In either event, such general obligation debt shall be payable first from the separate account in which are placed the proceeds received by the county from the levy. Such general obligation debt shall, however, constitute a pledge of the full faith, credit, and taxing power of the county; and any liability on such debt which is not satisfied from the proceeds of the levy shall be satisfied from the general funds of the county.

48-8-264.

(a) If the imposition of the levy is approved at the general election, the tax shall be imposed on the first day of the next succeeding calendar quarter which begins more than 80 days after the date of the election at which the levy was approved by the voters. With respect to services which are regularly billed on a monthly basis, however, the resolution shall become effective with respect to and the levy shall apply to services billed on or after the effective date specified in the previous sentence.

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

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

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

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

(c)(1) At any time, no more than a single tax under this article shall be imposed within a district. Any tax imposed under this article may be at a rate of up to 1 percent but shall not be more than 1 percent. Any rate less than 1 percent shall be in an increment of .05 percent.

(2) The governing authority of the county in which a levy is in effect under this article may, while the levy is in effect, adopt resolutions calling for the reimposition of the levy upon the termination of the levy then in effect; and an election may be held at the next regularly scheduled general election for this purpose while the levy is in effect. Proceedings for the reimposition of a levy shall be in the same manner as proceedings for the initial imposition of the levy, but the newly authorized levy shall not be imposed until the expiration of the levy then in effect.
(3) Following the expiration of a levy under this article, the county may initiate
proceedings for the reimposition of a levy under this article in the same manner as
provided in this article for initial imposition of such levy.

48-8-265.
A tax levied pursuant to this article shall be exclusively administered and collected by the
commissioner for the use and benefit of the county and qualified municipalities within the
district imposing the tax. Such administration and collection shall be accomplished in the
same manner and subject to the same applicable provisions, procedures, and penalties
provided in Article 1 of this chapter; provided, however, that all moneys collected from
each taxpayer by the commissioner shall be applied first to such taxpayer's liability for
taxes owed the state; and provided, further, that the commissioner may rely upon a
representation by or on behalf of the district or the Secretary of State that such a tax has
been validly imposed, and the commissioner and the commissioner's agents shall not be
liable to any person for collecting any such tax which was not validly imposed. Dealers
shall be allowed a percentage of the amount of the tax due and accounted for and shall be
reimbursed in the form of a deduction in submitting, reporting, and paying the amount due
if such amount is not delinquent at the time of payment. The deduction shall be at the rate
and subject to the requirements specified under subsections (b) through (f) of Code Section
48-8-50.

48-8-266.
Each sales tax return remitting taxes collected under this article shall separately identify
the location of each retail establishment at which any of the taxes remitted were collected
and shall specify the amount of sales and the amount of taxes collected at each
establishment for the period covered by the return in order to facilitate the determination
by the commissioner that all taxes imposed by this article are collected and distributed
according to situs of sale.

48-8-267.
The proceeds of the tax collected by the commissioner in each county under this article
shall be disbursed as soon as practicable after collection as follows:
(1) One percent of the amount collected shall be paid into the general fund of the state
treasury in order to defray the costs of administration; and
(2) Except for the percentage provided in paragraph (1) of this Code section, the
remaining proceeds of the tax shall be distributed pursuant to the terms of the
intergovernmental agreement, if applicable.
The levy shall not be subject to any allocation or balancing of state and federal funds provided for by general law, nor may such proceeds be considered or taken into account in any such allocation or balancing.

(a) Except as to rate, a tax imposed under this article shall correspond to the tax imposed by Article 1 of this chapter. No item or transaction which is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed under this article, except that a tax imposed under this article shall not apply to:

(1) The sale or use of any type of fuel used for off-road heavy-duty equipment, off-road farm or agricultural equipment, or locomotives;
(2) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport;
(3) The sale or use of fuel that is used for propulsion of motor vehicles on the public highways;
(4) The sale or use of energy used in the manufacturing or processing of tangible goods primarily for resale; or
(5) The sale or use of motor fuel as defined under paragraph (9) of Code Section 48-9-2 for public mass transit.

(b) The tax imposed pursuant to this article shall only be levied on the first $5,000.00 of any transaction involving the sale or lease of a motor vehicle. The tax imposed pursuant to this article shall be subject to any sales and use tax exemption which is otherwise imposed by law; provided, however, that the tax levied by this article shall be applicable to the sale of food and food ingredients as provided for in paragraph (57) of Code Section 48-8-3.

(c) Except as otherwise specifically provided in this article, the levy shall be subject to any sales and use tax exemption which is otherwise imposed by general law; provided, however, that such levy shall be applicable to the sale of food and beverages as provided for in division (57)(D)(i) of Code Section 48-8-3.

Where a local sales or use tax has been paid with respect to tangible personal property by the purchaser either in another local tax jurisdiction within this state or in a tax jurisdiction outside this state, the tax may be credited against the tax authorized to be imposed by this article upon the same property. If the amount of sales or use tax so paid is less than the amount of the levy due under this article, the purchaser shall pay an amount equal to the difference between the amount paid in the other tax jurisdiction and the amount due under
this article. The commissioner may require such proof of payment in another local tax
jurisdiction as he or she deems necessary and proper. No credit shall be granted, however,
against the levy for tax paid in another jurisdiction if the tax paid in such other jurisdiction
is used to obtain a credit against any other local sales and use tax levied in the county or
in a special district which includes the county.

48-8-269.2.
No levy shall be imposed upon the sale of tangible personal property which is ordered by
and delivered to the purchaser at a point outside the geographical area of the county in
which the levy is imposed regardless of the point at which title passes, if the delivery is
made by the seller's vehicle, United States mail, or common carrier or by private or contract
carrier.

48-8-269.3.
The commissioner shall have the power and authority to promulgate such rules and
regulations as shall be necessary for the effective and efficient administration and
enforcement of the collection of the levy.

48-8-269.4.
Except as provided in Code Section 48-8-6, the levy shall be in addition to any other local
sales and use tax. Except as provided in Code Section 48-8-6, the imposition of any other
local sales and use tax within a county shall not affect the authority of a county to impose
the levy, provided that a county is not currently collecting a levy under Article 5 of this
chapter, and the imposition of the levy shall not affect the imposition of any otherwise
authorized local sales and use tax within the county.

48-8-269.5.
(a)(1) The proceeds received from the levy shall be used by the county and qualified
municipalities within the district exclusively for the transportation purposes specified in
the resolution calling for imposition of the levy. Such proceeds shall be kept in a separate
account from other funds of any county and qualified municipality receiving proceeds of
the levy and shall not in any manner be commingled with other funds of any county or
qualified municipality prior to the expenditure.
(2) The governing authority of each county and the governing authority of each qualified
municipality receiving any proceeds from the levy pursuant to the intergovernmental
agreement, if applicable, with the county shall maintain a record of each and every
purpose for which the proceeds of the levy are used. A schedule shall be included in each
annual audit which shows for each purpose in the resolution calling for imposition of the
levy the original estimated cost, the current estimated cost if it is not the original
estimated cost, amounts expended in prior years, and amounts expended in the current
year. The auditor shall verify and test expenditures sufficient to provide assurances that
the schedule is fairly presented in relation to the financial statements. The auditor's report
on the financial statements shall include an opinion, or disclaimer of opinion, as to
whether the schedule is presented fairly in all material respects in relation to the financial
statements taken as a whole.

(b) No general obligation debt shall be issued in conjunction with the imposition of the
levy unless each county governing authority determines that, and if the debt is to be
validated it is demonstrated in the validation proceedings that, during each year in which
any payment of principal or interest on the debt comes due, the county will receive from
the levy net proceeds sufficient to fully satisfy such liability. General obligation debt
issued under this article shall be payable first from the separate account in which are placed
the proceeds received by each county from the levy. Such debt, however, shall constitute
a pledge of the full faith, credit, and taxing power of each county; and any liability on said
debt which is not satisfied from the proceeds of the levy shall be satisfied from the general
funds of the county.

c) The intergovernmental agreement, if applicable, and resolution calling for imposition
of the levy may specify that all of the proceeds of the levy will be used for payment of
general obligation debt issued in conjunction with the imposition of the levy. If the
intergovernmental agreement, if applicable, and resolution so provide, then such proceeds
shall be used solely for such purpose except as provided in subsection (f) of this Code
section.

d) The intergovernmental agreement, if applicable, and resolution calling for the
imposition of the levy may specify that a part of the proceeds of the levy will be used for
payment of general obligation debt issued in conjunction with the imposition of the tax.
If the intergovernmental agreement, if applicable, and resolution so provide, they shall
specifically state the other purposes for which such proceeds will be used. In such a case,
no part of the net proceeds from the levy received in any year shall be used for such other
purposes until all debt service requirements of the general obligation debt for that year have
first been satisfied from the account in which the proceeds of the levy are placed.

e) The resolution calling for the imposition of the levy may specify that no general
obligation debt is to be issued in conjunction with the imposition of the tax. If the
resolution so provides, it shall specifically state the purpose or purposes for which the
proceeds will be used.
(f)(1)(A) If the proceeds of the levy are specified to be used solely for the purpose of payment of general obligation debt issued in conjunction with the imposition of the levy, then any net proceeds of the levy in excess of the amount required for final payment of such debt shall be subject to and applied as provided in paragraph (2) of this subsection.

(B) If the district receives from the levy net proceeds in excess of the maximum cost of the transportation projects and costs stated in the resolution calling for the imposition of the levy or in excess of the actual cost of such purpose or purposes, then such excess proceeds shall be subject to and applied as provided in paragraph (2) of this subsection unless otherwise specified in the intergovernmental agreement, if applicable.

(C) If the tax is terminated under paragraph (1) of subsection (b) of Code Section 48-8-264 by reason of denial of validation of debt, then all net proceeds received by the special district from the tax shall be excess proceeds subject to paragraph (2) of this subsection.

(2) Excess proceeds subject to this subsection shall be used solely for the purpose of reducing any indebtedness of any county or qualified municipality within the district other than indebtedness incurred pursuant to this article. If there is no such other indebtedness or if the excess proceeds exceed the amount of any such other indebtedness, then the excess proceeds shall next be paid into the general fund of such county or qualified municipality, it being the intent that any funds so paid into the general fund of such county or qualified municipality be used for the purpose of reducing ad valorem taxes.

48-8-269.6.
Not later than December 31 of each year, the governing authority of each county and each qualifying municipality receiving any proceeds from the levy under this article shall publish annually, in a newspaper of general circulation in the boundaries of such county or municipality, a simple, nontechnical report which shows for each purpose in the resolution calling for imposition of the levy the original estimated cost, the current estimated cost if it is not the original estimated cost, amounts expended in prior years, and amounts expended in the current year. The report shall also include a statement of what corrective action the county or municipality intends to implement with respect to each purpose which is underfunded or behind schedule and a statement of any surplus funds which have not been expended for a purpose. *

SECTION 5.
All laws and parts of laws in conflict with this Act are repealed.