

House Bill 710

By: Representatives Turner of the 21st, Hawkins of the 27th, Willard of the 51st, Cooper of the 43rd, Dempsey of the 13th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 30 of the Official Code of Georgia Annotated, relating to disabled persons,
2 so as to provide for the establishment of a qualified ABLE program in this state to enable the
3 contribution of funds to tax-exempt accounts to pay for the qualified expenses of eligible
4 individuals with disabilities; to provide a short title; to provide for legislative intent; to define
5 certain terms; to provide for the creation of the Georgia ABLE Program Corporation; to
6 provide for a board of directors and its membership, powers, duties, and administration; to
7 provide for the establishment of the Georgia ABLE Program; to provide for participation
8 agreements and ABLE accounts; to provide for a trust fund and the administration thereof;
9 to provide for a comprehensive investment plan; to provide for effect of account deposits on
10 eligibility for certain public assistance; to provide for annual reports; to provide for
11 confidentiality and nondisclosure of certain records; to amend Code Section 48-7-27 of the
12 Official Code of Georgia Annotated, relating to computation of taxable net income, so as to
13 provide for certain deductions related to contributions to ABLE accounts; to provide for tax
14 treatment of withdrawals from ABLE accounts; to amend Code Section 50-13-2 of the
15 Official Code of Georgia Annotated, relating to the definitions for purposes of the Georgia
16 Administrative Procedure Act, so as to exclude the Georgia ABLE Program Corporation
17 from the meaning of "agency"; to provide for related matters; to provide for an effective date;
18 to repeal conflicting laws; and for other purposes.

19 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

20 **SECTION 1.**

21 Title 30 of the Official Code of Georgia Annotated, relating to disabled persons, is amended
22 by adding a new chapter to read as follows:

23 "CHAPTER 9

24 30-9-1.

25 This chapter shall be known and may be cited as the 'Georgia Achieving a Better Life
 26 Experience (ABLE) Act.'

27 30-9-2.

28 (a) It is the intent of the legislature to establish a qualified ABLE program in this state
 29 which will encourage and assist the saving of private funds in tax-exempt accounts in order
 30 to pay for the qualified disability expenses of eligible individuals with disabilities.

31 (b) It is also the intent of the legislature that the qualified ABLE program be implemented
 32 in a manner that is consistent with federal law authorizing the program and that maximizes
 33 program efficiency and effectiveness.

34 30-9-3.

35 As used in this chapter, the term:

36 (1) 'ABLE account' means an account established and owned by an eligible individual
 37 or his or her fiduciary pursuant to this chapter.

38 (2) 'Board' means the board of directors of the Georgia ABLE Program Corporation.

39 (3) 'Contracting state' means a state without a qualified ABLE program that enters into
 40 a contract with the Georgia ABLE Program Corporation to provide residents of the
 41 contracting state access to a qualified ABLE program.

42 (4) 'Corporation' means the Georgia ABLE Program Corporation created pursuant to
 43 Code Section 30-9-4.

44 (5) 'Designated beneficiary' means the eligible individual who establishes an ABLE
 45 account or to whom an ABLE account is transferred.

46 (6) 'Eligible individual' means an eligible individual as defined in Section 529A of the
 47 Internal Revenue Code.

48 (7) 'Georgia ABLE Program' or 'program' means the qualified ABLE program
 49 established pursuant to this chapter.

50 (8) 'Internal Revenue Code' has the meaning provided in Code Section 48-1-2.

51 (9) 'Participation agreement' means the agreement between the board and an eligible
 52 individual participating in the Georgia ABLE Program or his or her fiduciary.

53 (10) 'Qualified ABLE Program' means a program established pursuant to Section 529A
 54 of the Internal Revenue Code.

55 (11) 'Qualified disability expense' means an expense as defined in Section 529A of the
 56 Internal Revenue Code.

57 (12) 'Trust fund' means the Georgia ABLE Program Trust Fund.

58 30-9-4.

59 (a)(1) There is created the Georgia ABLE Program Corporation, as a body corporate and
60 politic and an instrumentality of the state, for purposes of establishing and administering
61 the Georgia ABLE Program. The corporation shall be governed by a board of directors
62 consisting of the Governor as chairperson, the commissioner of behavioral health and
63 developmental disabilities, the state auditor, the director of the Office of Planning and
64 Budget, the state revenue commissioner, three directors who shall be appointed by and
65 serve at the pleasure of the Governor, and the state treasurer who shall act as
66 administrative officer of the board. A majority of the board shall constitute a quorum,
67 and the acts of the majority shall be the acts of the board.

68 (2) Members of the board who are state officials or employees shall receive no
69 compensation for their service on the board but may be reimbursed for expenses incurred
70 by them in the performance of their duties as members of the board. Any members of the
71 board who are not state officials or employees shall receive a daily expense allowance in
72 the amount specified in subsection (b) of Code Section 45-7-21 for each day such
73 member is in attendance at a meeting of the board. Expense allowances and other costs
74 authorized in this paragraph shall be paid from moneys in the trust fund.

75 (b) The board shall have the authority necessary or convenient to carry out the purposes
76 and provisions of this chapter and the purposes and objectives of the trust fund, including,
77 but not limited to, the authority to:

78 (1) Have a seal and alter the same at its pleasure; bring and defend actions; make,
79 execute, and deliver contracts, conveyances, and other instruments necessary or
80 convenient to the exercise of its powers; and make and amend bylaws;

81 (2) Adopt such rules and regulations as are necessary to implement this chapter, subject
82 to applicable federal laws and regulations;

83 (3) Contract for necessary goods and services; employ necessary personnel; engage the
84 services of consultants and other qualified persons and entities for administrative and
85 technical assistance in carrying out its responsibilities under this chapter; and contract
86 with state or federal departments or agencies, upon such terms, for such consideration,
87 and for such purposes as it deems advisable;

88 (4) Solicit and accept gifts, including bequests or other testamentary gifts made by will,
89 trust, or other disposition grants, loans, and other aids from any personal source or
90 participate in any other way in any federal, state, or local governmental program in
91 carrying out the purposes of this chapter;

- 92 (5) Define the terms and conditions under which payments may be withdrawn or
 93 refunded from an ABLE account or the trust fund established under this chapter and
 94 impose reasonable charges for a withdrawal or refund;
 95 (6) Impose reasonable time limits on the use of ABLE account distributions;
 96 (7) Regulate the receipt of contributions or payments to the trust fund;
 97 (8) Require and collect fees and charges to cover the reasonable costs of administering
 98 ABLE accounts and impose a 10 percent penalty on the earnings portion included within
 99 a withdrawal of funds for nonqualified disability expenses or for entering into a
 100 participation agreement on a fraudulent basis;
 101 (9) Procure insurance against any loss in connection with the property, assets, and
 102 activities of the trust fund or the corporation;
 103 (10) Require that account contributors of participation agreements verify in writing,
 104 before a person authorized to administer oaths, any requests for contract conversions,
 105 substitutions, transfers, cancellations, refund requests, or changes of any nature;
 106 (11) Establish other policies, procedures, and criteria and perform such other acts as
 107 necessary or appropriate to implement and administer this chapter; and
 108 (12) Authorize the state treasurer to carry out any or all of the powers and duties
 109 enumerated in this chapter for efficient and effective administration of the program and
 110 trust fund.
 111 (c) The corporation is assigned to the Department of Administrative Services for
 112 administrative purposes only.

113 30-9-5.

- 114 (a) There is established the Georgia ABLE Program under which a person may make
 115 contributions for a taxable year, for the benefit of an eligible individual, to an ABLE
 116 account established for the purpose of meeting the qualified disability expenses of the
 117 designated beneficiary of the ABLE account. The program shall be administered by the
 118 corporation. Contributions and investment earnings on the contributions may be used for
 119 any qualified disability expenses of the designated beneficiary. Only one ABLE account
 120 may be established for any eligible individual.
 121 (b) Notwithstanding any other provision of law, the corporation may:
 122 (1) Enter into an agreement with a contracting state which allows the residents of such
 123 state to participate under the Georgia ABLE Program; or
 124 (2) Enter into an agreement with another state which allows the residents of this state to
 125 participate in the other state's qualified ABLE program.

126 (c) The Georgia ABLE Program shall continue in existence until terminated by law. If the
 127 state determines that the program is financially infeasible, the state may terminate the
 128 program. Upon termination, amounts in the trust fund held for each designated beneficiary
 129 shall be returned in accordance with the participation agreement.

130 (d) The state pledges to the designated beneficiaries that the state will not limit or alter
 131 their rights under this Code section which are vested in the Georgia ABLE Program until
 132 the program's obligations are met and discharged. However, this subsection shall not
 133 preclude such limitation or alteration if adequate provision is made by law for the
 134 protection of the designated beneficiaries pursuant to the obligations of the corporation and
 135 does not preclude termination of the program pursuant to subsection (c) of this Code
 136 section.

137 30-9-6.

138 The corporation, through the Georgia ABLE Program, shall:

139 (1) Establish, implement, and maintain the program as a qualified ABLE program under
 140 Section 529A of the Internal Revenue Code;

141 (2) Provide for the marketing of the program and develop and provide information to
 142 eligible individuals and their families necessary to establish and maintain an ABLE
 143 account; and

144 (3) Make participation agreements and ABLE accounts available to the public.

145 30-9-7.

146 (a) Each participation agreement made pursuant to this chapter shall include the following
 147 terms and conditions:

148 (1) The participation agreement shall not constitute a debt or obligation of the state;

149 (2) Participation in the Georgia ABLE Program does not guarantee that sufficient funds
 150 will be available to cover all qualified disability expenses for any designated beneficiary
 151 and does not guarantee the receipt or continuation of any product or service for the
 152 designated beneficiary;

153 (3) The designated beneficiary must be a resident of this state or a resident of a
 154 contracting state at the time the ABLE account is established;

155 (4) The establishment of an ABLE account in violation of federal law is prohibited;

156 (5) Contributions in excess of the limitations set forth in Section 529A of the Internal
 157 Revenue Code are prohibited;

158 (6) The state is a creditor of ABLE accounts as, and to the extent, set forth in Section
 159 529A of the Internal Revenue Code; and

160 (7) Material misrepresentations by a party to the participation agreement, other than the
 161 Georgia ABLE Program Corporation, in the application for the participation agreement
 162 or in any communication with the Georgia ABLE Program Corporation regarding the
 163 Georgia ABLE Program may result in the involuntary liquidation of the ABLE account.
 164 If an account is involuntarily liquidated, the designated beneficiary is entitled to a refund,
 165 subject to any fees or penalties provided by the participation agreement and the Internal
 166 Revenue Code.

167 (b) A participation agreement made pursuant to this chapter may include terms and
 168 conditions specifying:

- 169 (1) The requirements and applicable restrictions for opening an ABLE account;
 170 (2) The eligibility requirements for a party to the participation agreement and the rights
 171 of the party;
 172 (3) The requirements and applicable restrictions for making contributions to an ABLE
 173 account;
 174 (4) The requirements and applicable restrictions for directing the investment of the
 175 contributions or balance of the ABLE account;
 176 (5) The administrative fee and other fees and penalties applicable to an ABLE account;
 177 (6) The terms and conditions under which an ABLE account or a participation agreement
 178 may be modified, transferred, or terminated;
 179 (7) The disposition of abandoned ABLE accounts; and
 180 (8) Any other terms and conditions that the board deems necessary or appropriate,
 181 including without limitation those necessary to conform the participation agreement with
 182 the requirements of Section 529A of the Internal Revenue Code or other applicable
 183 federal laws.

184 (c) A participation agreement may be amended throughout its term for purposes that
 185 include, but are not limited to, allowing a participant to increase or decrease the level of
 186 participation and to change designated beneficiaries and other matters authorized by this
 187 Code section and Section 529A of the Internal Revenue Code.

188 (d) If an ABLE account is determined to be abandoned pursuant to rules adopted by the
 189 corporation, the corporation may use the balance of the account to operate the Georgia
 190 ABLE Program subject to any claims made pursuant to Code Section 30-9-14.

191 30-9-8.

192 (a)(1) There is created the Georgia ABLE Program Trust Fund as a separate fund in the
 193 state treasury. The trust fund shall be administered by the state treasurer. The state
 194 treasurer shall credit to the trust fund all amounts transferred to such fund. The trust fund
 195 shall consist of money remitted in accordance with participation agreements and shall

196 receive and hold all payments, contributions, and deposits intended for it as well as gifts,
197 bequests, endowments, grants and any other public or private source of funds, and all
198 earnings on the fund until disbursed as provided under this Code section. The amounts
199 on deposit in the trust fund shall not constitute property of the state. Amounts on deposit
200 in the trust fund shall not be commingled with state funds, and the state shall have no
201 claim to or interest in such funds other than the amount of reasonable fees and charges
202 assessed to cover administration costs. Participation agreements or any other contract
203 entered into by or on behalf of the trust fund shall not constitute a debt or obligation of
204 the state, and no account contributor shall be entitled to any amounts except for those
205 amounts on deposit in or accrued to the account of such contributor.

206 (2) The trust fund shall continue in existence so long as it holds any funds belonging to
207 an account contributor or otherwise has any obligations to any person or entity until its
208 existence is terminated by law and remaining assets on deposit in the trust fund are
209 returned to account contributors or transferred to the state in accordance with unclaimed
210 property laws.

211 (b) The official location of the trust fund shall be the state treasury, and the facilities of the
212 state treasury shall be used and employed in the administration of the fund, including
213 without limitation the keeping of records, the management of bank accounts and other
214 investments, the transfer of funds, and the safekeeping of securities evidencing
215 investments. These functions may be administered pursuant to a management agreement
216 with a qualified entity or entities.

217 (c) Payments received by the board on behalf of designated beneficiaries from account
218 contributors, other payors, or any other source, public or private, shall be placed in the trust
219 fund, and the board shall cause there to be maintained separate records and accounts for
220 individual beneficiaries as may be required under Section 529A of the Internal Revenue
221 Code or other applicable federal laws.

222 (d) Account contributors shall only be permitted to contribute cash except as otherwise
223 permitted under Section 529A of the Internal Revenue Code. The board shall cause the
224 program to maintain adequate safeguards against contributions to an ABLE account in
225 excess of what may be required for qualified disability expenses.

226 (e) Earnings derived from investment of the contributions shall be considered to be held
227 in trust in the same manner as contributions, except as applied for purposes of the
228 designated beneficiary and for purposes of maintaining and administering the program as
229 provided in this chapter. Amounts on deposit in an ABLE account shall be available for
230 administrative fees and expenses and penalties imposed by the board as delineated in the
231 participation agreement.

232 (f) The assets of the trust fund shall be preserved, invested, and expended solely pursuant
233 to and for the purposes of this chapter and shall not be loaned or otherwise transferred or
234 used by the state for any other purpose.

235 30-9-9.

236 The trust fund and ABLÉ account property and income shall be subject to taxation by the
237 state only as provided by Code Section 48-7-27 and shall not be subject to taxation by any
238 of the state's political subdivisions.

239 30-9-10.

240 (a) The board shall have authority to establish a comprehensive investment plan for the
241 purposes of this chapter and to invest any funds of the trust fund through the state treasurer.
242 The state treasurer shall invest the trust fund moneys pursuant to an investment policy
243 adopted by the board. Notwithstanding any state law to the contrary, the board, through
244 the state treasurer, shall invest or cause to be invested amounts on deposit in the trust fund,
245 including the program account, in a manner reasonable and appropriate to achieve the
246 objectives of the corporation, exercising the discretion and care of a prudent person in
247 similar circumstances with similar objectives. The board shall give due consideration to
248 the risk of, expected rate of return of, term or maturity of, diversification of total
249 investments of, liquidity of, and anticipated investments in and withdrawals from the trust
250 fund.

251 (b) The board may employ or contract with financial organizations, investment managers,
252 evaluation services, or other such entities as determined by the board to be necessary for
253 the effective and efficient operation of the program. The board shall establish criteria for
254 financial organizations, investment managers, evaluation services, or other such entities to
255 act as contractors or consultants to the board. The board may contract, either directly or
256 through such contractors or consultants, to provide such services as may be a part of the
257 comprehensive investment plan or as may be deemed necessary or proper by the board,
258 including without limitation providing consolidated billing, individual and collective record
259 keeping and accounting, and asset purchase, control, and safekeeping. All contractors and
260 consultants shall be selected by competitive solicitation, unless otherwise directed by the
261 board.

262 (c) All investments shall be marked clearly to indicate ownership by the corporation and,
263 to the extent possible, shall be registered in the name of the corporation.

264 (d) Subject to the terms, conditions, limitations, and restrictions set forth in this Code
265 section, the board may sell, assign, transfer, and dispose of any of the securities and

266 investments of the corporation if the sale, assignment, or transfer has the majority approval
267 of the entire board.

268 (e) Members and employees of the board shall be subject to the provisions of Chapter 10
269 of Title 45, relating to codes of ethics and conflicts of interest.

270 (f) No account contributor or beneficiary shall directly or indirectly direct the investment
271 of any account funds except as may be permitted under Section 529A of the Internal
272 Revenue Code or other applicable federal laws.

273 (g) The board may approve different investment plans and options to be offered to
274 participants to the extent permitted under Section 529A of the Internal Revenue Code or
275 other applicable federal laws and consistent with the objectives of this chapter, and the
276 board may require the assistance of investment counseling before participation in different
277 options.

278 30-9-11.

279 Notwithstanding any other provision of state law or regulation that requires consideration
280 of the financial circumstances of an applicant for state or federal public assistance or a
281 benefit provided under that law, the agency or entity making the determination of eligibility
282 for such assistance or benefit may not consider the amount in the applicant's ABLE
283 account, including earnings on that amount, and any distribution for qualified disability
284 expenses in determining the applicant's eligibility to receive the amount of the assistance
285 or benefit with respect to the period during which the individual maintains the ABLE
286 account.

287 30-9-12.

288 The board shall prepare or cause to be prepared an annual report setting forth in appropriate
289 detail an accounting of the funds in the trust fund and a description of the financial
290 condition of the corporation at the close of each fiscal year. Such report shall be submitted
291 to the Governor, the President of the Senate, and the Speaker of the House of
292 Representatives. In addition, the board shall make the report available to account
293 contributors and designated beneficiaries upon written request and may charge a reasonable
294 fee for such report. The accounts of the trust fund shall be subject to annual audits by the
295 state auditor or his or her designee.

296 30-9-13.

297 The Department of Community Health, the Department of Behavioral Health and
298 Developmental Disabilities, the Department of Human Services, and the Department of

299 Education shall assist, cooperate, and coordinate with the corporation in the provision of
 300 public information and outreach for the Georgia ABLE Program.

301 30-9-14.

302 (a) Upon the death of the designated beneficiary or the abandonment of an ABLE account
 303 by a designated beneficiary, the Department of Community Health and the Medicaid
 304 program for another state may file a claim with the Georgia ABLE Program for the total
 305 amount of medical assistance provided for the designated beneficiary under the Medicaid
 306 program after the date of the establishment of the ABLE account, less any premiums paid
 307 by or on behalf of the designated beneficiary to a Medicaid buy-in program. Funds in the
 308 ABLE account of the deceased designated beneficiary or in an abandoned ABLE account
 309 must first be distributed for qualified disability expenses followed by distributions for the
 310 Medicaid claim authorized under this subsection. Any remaining amount shall be
 311 distributed as provided in the participation agreement.

312 (b) The corporation shall assist and cooperate with the Department of Community Health
 313 and Medicaid programs in other states by providing the Department of Community Health
 314 and out-of-state Medicaid programs with the information needed to accomplish the purpose
 315 and objective of subsection (a) of this Code section.

316 30-9-15.

317 An ABLE account may not be assigned for the benefit of creditors, used as security or
 318 collateral for any loan, or otherwise subject to alienation, sale, transfer, assignment, pledge,
 319 encumbrance, or charge. Except as provided in Code Section 30-9-14, moneys paid into
 320 or out of an ABLE account, and the income and assets of such account, are not liable to
 321 attachment, levy, garnishment, or legal process in this state in favor of any creditor of or
 322 claimant against any designated beneficiary or account contributor.

323 30-9-16.

324 (a) The provisions of Article 4 of Chapter 18 of Title 50 notwithstanding, the following
 325 records, or portions thereof, shall not constitute public records and shall not be open to
 326 inspection by the general public:

327 (1) Completed participation applications, executed participation agreements, and ABLE
 328 account numbers;

329 (2) All wiring or automated clearing-house transfer of funds instructions regarding
 330 participation agreements;

331 (3) ABLE account transactions and analysis statements received or prepared by or for
 332 the corporation;

- 333 (4) All bank account numbers in the possession of the corporation and any record or
 334 document containing such numbers;
- 335 (5) All proprietary computer software in the possession or under the control of the
 336 corporation; and
- 337 (6) All security codes and procedures related to physical, electronic, or other access to
 338 any ABLE account or the trust fund, its systems, and its software.
- 339 (b) For a period from the date of creation of the record until the end of the calendar quarter
 340 in which the record is created, the following records, or portions thereof, of the trust fund
 341 shall not constitute public records and shall not be open to inspection by the general public:
- 342 (1) Investment trade tickets; and
- 343 (2) Bank statements.
- 344 (c) The restrictions of subsections (a) and (b) of this Code section shall not apply to access:
- 345 (1) Required by subpoena or other legal process of a court or administrative agency
 346 having competent jurisdiction in legal proceedings where the State of Georgia or the
 347 corporation is a party;
- 348 (2) In prosecutions or other court actions to which the State of Georgia or the corporation
 349 is a party;
- 350 (3) Given to federal or state regulatory or law enforcement agencies;
- 351 (4) Given to any person or entity in connection with an ABLE account to which such
 352 person or entity is an account contributor or given to any person in connection with an
 353 ABLE account of which such person is a beneficiary; or
- 354 (5) Given to the board or any member, employee, or contractor thereof for use and public
 355 disclosure in the ordinary performance of its duties pursuant to this chapter."

356 **SECTION 2.**

357 Code Section 48-7-27 of the Official Code of Georgia Annotated, relating to computation of
 358 taxable net income, is amended in subsection (a) by adding a new paragraph to read as
 359 follows:

360 "(11.2) For taxable years beginning on or after January 1, 2016:

361 (A) An amount equal to the amount of contributions to an ABLE account established
 362 pursuant to Chapter 9 of Title 30 on behalf of the designated beneficiary, but not
 363 exceeding \$2,000.00 per beneficiary;

364 (B) If the contributor files a separate return or single return, the sum of contributions
 365 constituting deductions on the contributor's return under this paragraph shall not exceed
 366 \$2,000.00 per beneficiary;

367 (C) If the contributor files a joint return, the sum of contributions constituting
 368 deductions on the contributor's return under this paragraph shall not exceed \$2,000.00
 369 per beneficiary; and
 370 (D) For purposes of this paragraph, contributions or payments for any such taxable
 371 year may be made during or after such taxable year but on or before the deadline for
 372 making contributions to an individual retirement account under federal law for such
 373 taxable year;"

374 **SECTION 3.**

375 Said Code section is further amended in subsection (b) by adding a new paragraph to read
 376 as follows:

377 "(10.1)(A) Except as otherwise provided in subparagraph (C) of this paragraph, the
 378 amount of any qualified withdrawals from an ABLE account under Chapter 9 of Title
 379 30 shall not be subject to state income tax under this chapter.

380 (B) For withdrawals other than qualified withdrawals from such an ABLE account, the
 381 proportion of earnings in the account balance at the time of the withdrawal shall be
 382 applied to the total funds withdrawn to determine the earnings portion to be included
 383 in the account owner's taxable net income in the year of withdrawal.

384 (C) For withdrawals other than qualified withdrawals from such an ABLE account and
 385 for withdrawals from such an ABLE account which are rolled over to another account
 386 if authorized by law, the proportion of the contributions in an account balance at the
 387 time of a withdrawal which previously have been used to reduce taxable net income
 388 pursuant to subsection (a) of this Code section shall be applied to the nonearnings
 389 portion of the total funds withdrawn to determine an amount to be included in the
 390 account owner's taxable net income in the same taxable year."

391 **SECTION 4.**

392 Code Section 50-13-2 of the Official Code of Georgia Annotated, relating to definitions for
 393 purposes of the Georgia Administrative Procedure Act, is amended by revising paragraph (1)
 394 as follows:

395 "(1) 'Agency' means each state board, bureau, commission, department, activity, or
 396 officer authorized by law expressly to make rules and regulations or to determine
 397 contested cases, except the General Assembly; the judiciary; the Governor; the State
 398 Board of Pardons and Paroles; the State Financing and Investment Commission; the State
 399 Properties Commission; the Board of Bar Examiners; the Board of Corrections and its
 400 penal institutions; the State Board of Workers' Compensation; all public authorities
 401 except as otherwise expressly provided by law; the State Personnel Board; the

402 Department of Administrative Services or commissioner of administrative services; the
 403 Technical College System of Georgia; the Nonpublic Postsecondary Education
 404 Commission; the Department of Labor when conducting hearings related to
 405 unemployment benefits or overpayments of unemployment benefits; the Department of
 406 Revenue when conducting hearings relating to alcoholic beverages, tobacco, or bona fide
 407 coin operated amusement machines or any violations relating thereto; the Georgia
 408 Tobacco Community Development Board; the Georgia Higher Education Savings Plan;
 409 the Georgia ABLE Program Corporation; any school, college, hospital, or other such
 410 educational, eleemosynary, or charitable institution; or any agency when its action is
 411 concerned with the military or naval affairs of this state. The term 'agency' shall include
 412 the State Board of Education and Department of Education, subject to the following
 413 qualifications:

414 (A) Subject to the limitations of subparagraph (B) of this paragraph, all otherwise valid
 415 rules adopted by the State Board of Education and Department of Education prior to
 416 January 1, 1990, are ratified and validated and shall be effective until January 1, 1991,
 417 whether or not such rules were adopted in compliance with the requirements of this
 418 chapter; and

419 (B) Effective January 1, 1991, any rule of the State Board of Education or Department
 420 of Education which has not been proposed, submitted, and adopted in accordance with
 421 the requirements of this chapter shall be void and of no effect."

422 **SECTION 5.**

423 This Act shall become effective upon its approval by the Governor or upon its becoming law
 424 without such approval.

425 **SECTION 6.**

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