

House Bill 768 (AS PASSED HOUSE AND SENATE)

By: Representatives Hawkins of the 27<sup>th</sup>, Willard of the 51<sup>st</sup>, Fludd of the 64<sup>th</sup>, Jones of the 47<sup>th</sup>, Turner of the 21<sup>st</sup>, 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 the 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 tax treatment of withdrawals from ABLE accounts; to amend Code Section  
14 50-13-2 of the Official Code of Georgia Annotated, relating to the definitions for purposes  
15 of the Georgia Administrative Procedure Act, so as to exclude the Georgia ABLE Program  
16 Corporation from the meaning of "agency"; to provide for related matters; to provide for an  
17 effective date; to repeal conflicting laws; and for other purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 SECTION 1.

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

22 "CHAPTER 9

23 30-9-1.

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

26 30-9-2.

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

31 (b) It is also the intent of the legislature that any qualified ABLE program established in  
32 this state be implemented in a manner that is consistent with federal law authorizing the  
33 program and that maximizes 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 pursuant to this chapter.

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

39 (3) 'Corporation' means the Georgia ABLE Program Corporation created pursuant to  
40 Code Section 30-9-4.

41 (4) 'Designated beneficiary' means the eligible individual who establishes an ABLE  
42 account or to whom an ABLE account is transferred.

43 (5) 'Eligible individual' means an eligible individual as defined in Section 529A of the  
44 Internal Revenue Code.

45 (6) 'Georgia ABLE program' or 'program' means a qualified ABLE program established  
46 pursuant to this chapter.

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

48 (8) 'Participation agreement' means the agreement between the board and an eligible  
49 individual participating in the Georgia ABLE Program Trust Fund or his or her fiduciary.

50 (9) 'Qualified ABLE Program' means a program established pursuant to Section 529A  
51 of the Internal Revenue Code.

52 (10) 'Qualified disability expense' means an expense as defined in Section 529A of the  
53 Internal Revenue Code.

54 (11) 'Trust fund' means the Georgia ABLE Program Trust Fund.

55 30-9-4.

56 (a)(1) There is created the Georgia ABLE Program Corporation, as a body corporate and  
 57 politic and an instrumentality of the state, for purposes of establishing and administering  
 58 the Georgia ABLE Program. The corporation shall be governed by a board of directors  
 59 consisting of the commissioner of behavioral health and developmental disabilities; the  
 60 commissioner of community health; the state auditor; the director of the Office of  
 61 Planning and Budget; the state revenue commissioner; the state treasurer; and three  
 62 directors who shall be appointed by and serve at the pleasure of the Governor, who shall  
 63 include at least two persons who are persons with a disability, a family member of a  
 64 person with a disability, or a disability advocacy professional. The board shall elect a  
 65 chairperson from its membership. The state treasurer shall act as administrative officer  
 66 of the board. A majority of the board shall constitute a quorum, and the acts of the  
 67 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 funds or aid from any endowment or  
 90 other public or private source or participate in any other way in any federal, state, or local  
 91 governmental program in 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) Regulate the receipt of contributions or payments to the trust fund;  
 96 (7) Require and collect fees and charges to cover the reasonable costs of administering  
 97 ABLE accounts and impose a 10 percent penalty on the earnings portion included within  
 98 a withdrawal of funds for nonqualified disability expenses or for entering into a  
 99 participation agreement on a fraudulent basis;  
 100 (8) Procure insurance against any loss in connection with the property, assets, and  
 101 activities of the trust fund or the corporation;  
 102 (9) Establish other policies, procedures, and criteria and perform such other acts as  
 103 necessary or appropriate to implement and administer this chapter; and  
 104 (10) Authorize the state treasurer to carry out any or all of the powers and duties  
 105 enumerated in this chapter for efficient and effective administration of the program and  
 106 trust fund.  
 107 (c) The corporation is assigned to the Department of Administrative Services for  
 108 administrative purposes only.

109 30-9-5.

110 (a) The board shall be authorized to establish a Georgia ABLE Program under which a  
 111 person may make contributions for a taxable year, for the benefit of an eligible individual,  
 112 to an ABLE account established for the purpose of meeting the qualified disability  
 113 expenses of the designated beneficiary of the ABLE account. Any such program shall be  
 114 administered by the corporation. Contributions and investment earnings on the  
 115 contributions may be used for any qualified disability expenses of the designated  
 116 beneficiary. Only one ABLE account may be established for any eligible individual.

117 (b) In addition to or in lieu of establishing a Georgia ABLE Program pursuant to  
 118 subsection (a) of this Code section, the corporation may:

119 (1) Enter into an agreement with another state which allows the residents of such state  
 120 to participate under the Georgia ABLE Program;

121 (2) Enter into an agreement with one or more states or a consortium of states that has a  
 122 qualified ABLE program to allow residents of this state to participate in the qualified  
 123 ABLE program of such other state, states, or consortium; or

124 (3) Facilitate or otherwise provide access to allow residents of this state to participate in  
 125 qualified ABLE programs operated by other states.

126 (c) If a Georgia ABLE Program is established pursuant to subsection (a) of this Code  
 127 section, it shall continue in existence until terminated by law. If the state determines that

128 the program is financially infeasible, the state may terminate the program. Upon  
129 termination, amounts in the trust fund held for each designated beneficiary shall be  
130 returned in accordance with the participation agreement.

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

138 30-9-6.

139 If the board establishes a Georgia ABLE Program pursuant to Code Section 30-9-5, the  
140 board shall:

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

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

146 (3) Make participation agreements and ABLE accounts available to eligible individuals.

147 30-9-7.

148 (a) Each participation agreement entered into pursuant to this chapter shall include the  
149 following terms and conditions:

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

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

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

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

158 (5) 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 (6) 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 ABLÉ Program may result in the involuntary liquidation of the ABLÉ 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 entered into pursuant to this chapter may include terms and  
168 conditions specifying:

169 (1) The requirements and applicable restrictions for opening an ABLÉ 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 ABLÉ  
173 account;

174 (4) The requirements and applicable restrictions for directing the investment of the  
175 contributions or balance of the ABLÉ account;

176 (5) The administrative fee and other fees and penalties applicable to an ABLÉ account;

177 (6) The terms and conditions under which an ABLÉ account or a participation agreement  
178 may be modified, transferred, or terminated; and

179 (7) Any other terms and conditions that the board deems necessary or appropriate,  
180 including without limitation those necessary to conform the participation agreement with  
181 the requirements of Section 529A of the Internal Revenue Code or other applicable  
182 federal laws.

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

187 30-9-8.

188 (a)(1) The board shall be authorized to create the Georgia ABLÉ Program Trust Fund.  
189 The trust fund shall be administered by the state treasurer. The state treasurer shall credit  
190 to the trust fund all amounts transferred to such fund. The trust fund shall consist of  
191 money remitted in accordance with participation agreements and shall receive and hold  
192 all payments, contributions, and deposits intended for it as well as gifts, bequests,  
193 endowments, grants and any other public or private source of funds, and all earnings on  
194 the fund until disbursed as provided under this Code section. The amounts on deposit in  
195 the trust fund shall not constitute property of the state. Amounts on deposit in the trust  
196 fund shall not be commingled with state funds, and the state shall have no claim to or  
197 interest in such funds other than the amount of reasonable fees and charges assessed to  
198 cover administration costs. Participation agreements or any other contract entered into

199 by or on behalf of the trust fund shall not constitute a debt or obligation of the state, and  
 200 no account contributor shall be entitled to any amounts except for those amounts on  
 201 deposit in or accrued to the account of such contributor.

202 (2) The trust fund shall continue in existence so long as it holds any funds belonging to  
 203 an account contributor or otherwise has any obligations to any person or entity until its  
 204 existence is terminated by law and remaining assets on deposit in the trust fund are  
 205 returned to designated beneficiaries or other eligible persons pursuant to the terms of the  
 206 participation agreement or transferred to the state in accordance with unclaimed property  
 207 laws.

208 (b) The official location of the trust fund shall be the Office of the State Treasurer, and  
 209 unless otherwise authorized by the board, the facilities of the Office of the State Treasurer  
 210 shall be used and employed in the administration of the fund, including without limitation  
 211 the keeping of records, the management of bank accounts and other investments, the  
 212 transfer of funds, and the safekeeping of securities evidencing investments. These  
 213 functions may be administered pursuant to a management agreement with a qualified entity  
 214 or entities.

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

220 (d) Account contributors shall only be permitted to contribute cash except as otherwise  
 221 permitted under Section 529A of the Internal Revenue Code. The board shall establish  
 222 appropriate safeguards against contributions to an ABLE account in excess of the  
 223 limitations set forth in Section 529A of the Internal Revenue Code.

224 (e) Earnings derived from investment of the contributions shall be considered to be held  
 225 in trust in the same manner as contributions. Amounts on deposit in an ABLE account  
 226 shall be available for administrative fees and expenses and penalties imposed by the board  
 227 as delineated in the participation agreement.

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

231 30-9-9.

232 The trust fund and ABLE account property and income shall be subject to taxation by the  
 233 state only as provided by paragraph (10.1) of subsection (b) of Code Section 48-7-27 and  
 234 shall not be subject to taxation by any of the state's political subdivisions.

235 30-9-10.

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

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

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

260 (d) Subject to the terms, conditions, limitations, and restrictions set forth in this Code  
261 section, the board may sell, assign, transfer, and dispose of any of the securities and  
262 investments of the corporation if the sale, assignment, or transfer has the majority approval  
263 of the entire board.

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

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

269 (g) The board may approve different investment plans and options to be offered to  
270 participants to the extent permitted under Section 529A of the Internal Revenue Code or  
271 other applicable federal laws and consistent with the objectives of this chapter, and the



272 board may require the assistance of investment counseling before participation in different  
273 options.

274 30-9-11.

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

284 30-9-12.

285 (a) If the board creates the Georgia ABLE Program Trust Fund pursuant to Code Section  
286 30-9-8, the board shall prepare or cause to be prepared an annual report setting forth in  
287 appropriate detail an accounting of the Georgia Able Trust Fund at the close of each fiscal  
288 year. Such report shall be submitted to the Governor, the President of the Senate, and the  
289 Speaker of the House of Representatives. In addition, the board shall make the report  
290 available to account contributors and designated beneficiaries in the trust fund upon written  
291 request and may charge a reasonable fee for such report. The accounts of the trust fund  
292 shall be subject to annual audits by the state auditor or his or her designee.

293 (b) Statements shall be provided to each designated beneficiary at least four times each  
294 year within 30 days after the end of the quarterly period to which a statement relates. The  
295 statement shall identify the contributions made during the preceding quarter, the total  
296 contributions made to the account through that quarter, the value of the account on the last  
297 day of that quarter, distributions made during that quarter, and any other information that  
298 the state treasurer requires to be reported to the designated beneficiary.

299 30-9-13.

300 The Department of Community Health, the Department of Behavioral Health and  
301 Developmental Disabilities, the Department of Human Services, the Georgia Vocational  
302 Rehabilitation Agency, and the Department of Education shall assist, cooperate, and  
303 coordinate with the corporation in the provision of public information and outreach for a  
304 board approved Qualified ABLE Program.

305 30-9-14.

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

315 (b) The corporation shall assist and cooperate with the Department of Community Health  
 316 and Medicaid programs in other states upon the death of a designated beneficiary of the  
 317 trust fund by coordinating through the Department of Community Health with the  
 318 information needed to accomplish the purpose and objective of subsection (a) of this Code  
 319 section.

320 30-9-15.

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

327 30-9-16.

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

331 (1) Completed participation applications, executed participation agreements, and ABLE  
 332 account numbers;

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

335 (3) ABLE account transactions, IP addresses used to initiate transactions, and analysis  
 336 statements received or prepared by or for the corporation;

337 (4) All bank routing and account numbers in the possession of the corporation and any  
 338 record or document containing such numbers;

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

360 **SECTION 2.**

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

364 "(10.1)(A) The amount of any qualified withdrawals from an ABLE account  
 365 established pursuant to a Georgia ABLE program or any Qualified ABLE Program, as  
 366 such programs are defined under Chapter 9 of Title 30, shall not be subject to state  
 367 income tax under this chapter.

368 (B) For withdrawals other than qualified withdrawals from such an ABLE account, the  
 369 proportion of earnings in the account balance at the time of the withdrawal shall be  
 370 applied to the total funds withdrawn to determine the earnings portion to be included  
 371 in the designated beneficiary's taxable net income in the year of withdrawal."

372 **SECTION 3.**

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

376 "(1) 'Agency' means each state board, bureau, commission, department, activity, or  
 377 officer authorized by law expressly to make rules and regulations or to determine  
 378 contested cases, except the General Assembly; the judiciary; the Governor; the State  
 379 Board of Pardons and Paroles; the State Financing and Investment Commission; the State  
 380 Properties Commission; the Board of Bar Examiners; the Board of Corrections and its  
 381 penal institutions; the State Board of Workers' Compensation; all public authorities  
 382 except as otherwise expressly provided by law; the State Personnel Board; the  
 383 Department of Administrative Services or commissioner of administrative services; the  
 384 Technical College System of Georgia; the Nonpublic Postsecondary Education  
 385 Commission; the Department of Labor when conducting hearings related to  
 386 unemployment benefits or overpayments of unemployment benefits; the Department of  
 387 Revenue when conducting hearings relating to alcoholic beverages, tobacco, or bona fide  
 388 coin operated amusement machines or any violations relating thereto; the Georgia  
 389 Tobacco Community Development Board; the Georgia Higher Education Savings Plan;  
 390 the Georgia ABLE Program Corporation; any school, college, hospital, or other such  
 391 educational, eleemosynary, or charitable institution; or any agency when its action is  
 392 concerned with the military or naval affairs of this state. The term 'agency' shall include  
 393 the State Board of Education and Department of Education, subject to the following  
 394 qualifications:

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

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

403 **SECTION 4.**

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

406

**SECTION 5.**

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