

ADOPTED

Representative Corbett of the 174th offers the following amendment:

1 *Amend the Senate substitute to HB 93 (LC 43 0967ERS) by deleting lines 1 through 17 and*
 2 *inserting in lieu thereof the following:*

3 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
 4 taxation, so as to expand an exemption from sales and use tax for certain computer
 5 equipment sold or leased to commercial banks; to create an exemption from sales and use tax
 6 for certain poultry diagnostic and disease monitoring services; to require the Department of
 7 Revenue to establish and maintain a direct pay permit program that permits a qualified
 8 taxpayer to accrue and pay directly to the department certain state and local sales and use
 9 taxes; to revise the annual reporting requirements regarding projects and purposes using
 10 SPLOST funds; to provide for equitable, civil and criminal enforcement actions to be brought
 11 in superior court regarding sales taxes for educational purposes; to provide for related
 12 matters; to repeal conflicting laws; and for other purposes.

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

SECTION 1.

14 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 15 amended by revising Code Section 48-2-35.1,
 16

17 *By deleting lines 32 through 164 and inserting in lieu thereof the following:*

SECTION 2.

18 Said title is further amended in Code Section 48-8-3, relating to exemptions from state sales
 19 and use taxes, by revising subparagraph (A) of paragraph (68) and by deleting "or" at the end
 20 of subparagraph (E) of paragraph (99), by replacing the period with "; or" at the end of
 21 subparagraph (C) of paragraph (100), and by adding a new paragraph to read as follows:
 22

23 "(68)(A) The sale or lease of computer equipment to be incorporated into a facility or
 24 facilities in this state to any high-technology company classified under North American
 25 Industrial Classification System code 51121, 51331, 51333, 51334, 51421, 52232,
 26 54133, 54171, 54172, 334413, 334611, 513321, 513322, 514191, 522110, 541511,
 27 541512, 541513, or 541519 where such sale of computer equipment for any calendar
 28 year exceeds \$15 million or, in the event of a lease of such computer equipment, the
 29 fair market value of such leased computer equipment for any calendar year exceeds \$15
 30 million."

31 "(101) Sales to or by any nonprofit organization which has as its primary purpose
 32 providing poultry diagnostic and disease monitoring services if such organization
 33 qualifies as a tax-exempt organization under Section 501(c)(5) of the Internal Revenue
 34 Code."

35 SECTION 3.

36 Said title is further amended by adding a new Code section to read as follows:

37 "48-8-49.1.

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

39 (1) 'Direct payment permit' means a license that permits a qualified taxpayer to accrue
 40 and pay directly to the department certain state and local sales and use taxes imposed by
 41 this chapter.

42 (2) 'Qualified taxpayer' means a taxpayer that:

43 (A) Purchased more than \$2 million of tangible personal property in the 12 months
 44 prior to application, purchased an annual average amount exceeding \$2 million of
 45 tangible personal property during the 36 months prior to application, or met a lower
 46 purchase threshold prescribed the department; and

47 (B) Was classified under the previous year's federal income tax return under any
 48 industry classification code as determined by the commissioner that may facilitate and
 49 expedite the collection of the taxes imposed by this chapter or equivalent to one of the
 50 following North American Industry Classification System (NAICS) codes as they
 51 existed on January 1, 2017:

52 (i) National Industry Code 517110 – Wired Telecommunications Carriers;

53 (ii) National Industry Code 517210 – Wireless Telecommunications Carriers (except
 54 Satellite);

55 (iii) National Industry Code 517410 – Satellite Telecommunications;

56 (iv) NAICS Industry Code 48111 – Scheduled Air Transportation;

57 (v) NAICS Industry Code 48211 – Rail Transportation;

58 (vi) Industry Group Code 4841 – General Freight Trucking;

59 (vii) Economic Sector Code 21 – Mining, Quarrying, and Oil and Gas Extraction;

60 (viii) Economic Sector Code 22 – Utilities; or

61 (ix) Economic Sector Codes 31-33 – Manufacturing.

62 (b) The department shall establish and maintain a direct pay reporting program for the
 63 purpose of enabling qualified taxpayers to directly pay to the department taxes that are
 64 imposed on such qualified taxpayers by this chapter, provided that the commissioner may
 65 exclude the following:

- 66 (1) Purchases of fuels subject to prepaid local tax as such term is defined in Code Section
 67 48-8-2;
- 68 (2) Purchases of meals, beverages, or tobacco;
- 69 (3) Purchases of local telephone services, transportation of persons, or lodging
 70 accommodations and ancillary charges associated with lodging accommodations;
- 71 (4) Purchases to places of amusement, entertainment, or athletic events; admissions to
 72 displays or exhibitions; participation in games or sports; or charges for the use of
 73 amusement devices; or
- 74 (5) Rental charges for periods of 31 days or less for motor vehicles required to be titled
 75 in this state.
- 76 (c) The department shall issue a direct pay permit to a qualified taxpayer upon application
 77 in a manner that the department shall prescribe by rule or regulation.
- 78 (d) The department shall, at a minimum, provide for the following by rule or regulation:
- 79 (1) Certain attestations to be made by a qualified taxpayer in its application for a direct
 80 pay permit;
- 81 (2) Responsibilities and duties for holders of direct pay permits;
- 82 (3) Transferability or nontransferability of direct pay permits;
- 83 (4) Expiration and renewal of direct pay permits; and
- 84 (5) Revocation of direct pay permits."

85 **SECTION 4.**

86 Said title is further amended by revising Code Section 48-8-122, relating to record of projects
 87 on which tax proceeds are used and annual reporting and newspaper publication of report,
 88 as follows:

89 "48-8-122.

90 The governing authority of the county and the governing authority of each municipality
 91 receiving any proceeds from the tax under this part or under Article 4 of this chapter shall
 92 maintain a record of each and every project for which the proceeds of the tax are used. Not
 93 later than ~~December 31~~ 180 days following the close of each fiscal year, the governing
 94 authority of each local government receiving any proceeds from the tax under this part
 95 shall publish annually, in a newspaper of general circulation in the boundaries of such local
 96 government and in a prominent location on the local government website, if such local
 97 government maintains a website, a simple, nontechnical report which shows for each
 98 project or purpose in the resolution or ordinance calling for imposition of the tax the
 99 original estimated cost, the current estimated cost if it is not the original estimated cost,
 100 amounts expended in prior fiscal years, amounts expended in the ~~current~~ most recently
 101 completed fiscal year, any excess proceeds which have not been expended for a project or

102 purpose, estimated completion date, and the actual completion cost of a project completed
 103 during the ~~current~~ most recently completed fiscal year. In the case of road, street, and
 104 bridge purposes, such information shall be in the form of a consolidated schedule of the
 105 total original estimated cost, the total current estimated cost if it is not the original
 106 estimated cost, and the total amounts expended in prior fiscal years and the ~~current~~ most
 107 recently completed fiscal year for all such projects and not a separate enumeration of such
 108 information with respect to each such individual road, street, or bridge project. The report
 109 shall also include a statement of what corrective action the local government intends to
 110 implement with respect to each project which is underfunded or behind schedule."

111 **SECTION 5.**

112 Said title is further amended by adding a new Code section to read as follows:

113 "48-8-145.

114 The superior courts of this state shall have jurisdiction to enforce compliance with the
 115 provisions of this part, including the power to grant injunctions or other equitable relief.

116 In addition to any action that may be brought by any person or entity, the Attorney General
 117 shall have authority to bring enforcement actions, either civil or criminal, in his or her
 118 discretion as may be appropriate to enforce compliance with this part."

119 **SECTION 6.**

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