

Senate Chamber, Atlanta, Georgia
Wednesday, February 25, 2009
Twenty-third Legislative Day

The Senate met pursuant to adjournment at 10:00 a.m. today and was called to order by Senator Tommie Williams, President Pro Tempore.

Senator Smith of the 52nd reported that the Journal of the previous legislative day had been read and found to be correct.

By unanimous consent, the reading of the Journal was dispensed with.

The Journal was confirmed.

The following message was received from the House through Mr. Rivers, the Clerk thereof:

Mr. President:

The House has passed by the requisite constitutional majority the following Bills of the House:

HB 64. By Representative Sims of the 169th:

A BILL to be entitled an Act to amend Code Section 31-10-15 of the Official Code of Georgia Annotated, relating to death certificate filings, so as to provide for the completion of the medical certification as to the cause and circumstances of death during a certain period of time; to provide for penalties; to provide that a coroner shall be authorized to complete and sign a medical certification as to the cause and circumstances of death under certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 100. By Representatives Ehrhart of the 36th, Casas of the 103rd, Lunsford of the 110th and Lindsey of the 54th:

A BILL to be entitled an Act to amend Title 20 and Title 48 of the Official Code of Georgia Annotated, relating, respectively, to education and revenue and taxation, so as to revise and change certain provisions regarding educational improvement and student scholarship organizations; to change certain definitions; to change certain requirements regarding operation and taxation of student scholarship organizations; to provide for criminal penalties regarding student scholarship organization requirements;

to revise and change certain provisions regarding the qualified education income tax credit; to provide an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

HB 120. By Representatives Smith of the 70th, Dempsey of the 13th, Talton of the 145th, Harden of the 147th, Powell of the 171st and others:

A BILL to be entitled an Act to amend Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from state sales and use tax, so as to provide for an exemption with respect to the sale of certain school supplies, clothing, footwear, computers, and computer related accessories for a limited period of time; to provide for an exemption from sales and use tax with respect to certain sales of certain energy efficient products for a limited period of time; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 156. By Representatives Harbin of the 118th, Anderson of the 117th and Sims of the 119th:

A BILL to be entitled an Act to amend Article 2 of Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to magistrates, so as to provide that elected magistrate judges who are performing ordered military duty may continue in office and be eligible for reelection during such duty; to provide for qualifying for election by mail, messenger, or agent during such duty; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 167. By Representatives Jerguson of the 22nd, Hill of the 21st, Byrd of the 20th and Hamilton of the 23rd:

A BILL to be entitled an Act to amend an Act to create the State Court of Cherokee County, approved April 15, 1996 (Ga. L. 1996, p. 4427), so as to provide an additional judge for such court; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 172. By Representatives Maxwell of the 17th, Benton of the 31st, Meadows of the 5th and Maddox of the 172nd:

A BILL to be entitled an Act to amend Code Section 47-2-125 of the Official Code of Georgia Annotated, relating to reexamination of persons receiving disability benefits under the Employees' Retirement System of Georgia, effect of refusal to undergo examination, and effect of ability to engage in gainful employment, so as to delete provisions providing for

physical examinations done at a place convenient to the beneficiary; to provide that a beneficiary who has not reached the age of 60 shall submit to an examination; to provide that the amount earnable by certain disabled members shall include certain payments that the beneficiary receives from workers' compensation; to repeal conflicting laws; and for other purposes.

HB 216. By Representatives Harden of the 147th, Roberts of the 154th, Pruett of the 144th and James of the 135th:

A BILL to be entitled an Act to amend Code Section 15-6-3 of the Official Code of Georgia Annotated, relating to terms of superior court, so as to change certain terms of court in the Cordele Judicial Circuit; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

HB 283. By Representatives Martin of the 47th, Harbin of the 118th, Oliver of the 83rd, Smith of the 113th and Willard of the 49th:

A BILL to be entitled an Act to amend Article 1 of Chapter 6 of Title 5 of the Official Code of Georgia Annotated, relating to general provisions pertaining to certiorari and appeals to appellate courts generally, so as to change certain provisions relating to filing fees for appeals to the Supreme Court and the Court of Appeals; to amend Code Section 15-19-2 of the Official Code of Georgia Annotated, relating to the rules governing the board of examiners, expenses of the board, and the amount and disposition of examination fees, so as to change certain provisions relating to bar examination fees; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 331. By Representative Martin of the 47th:

A BILL to be entitled an Act to amend Article 1 of Chapter 6 of Title 5 of the Official Code of Georgia Annotated, relating to general provisions pertaining to certiorari and appeals to appellate courts generally, so as to change certain provisions relating to filing fees for appeals to the Supreme Court and the Court of Appeals; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 343. By Representatives Collins of the 27th, Chambers of the 81st, Martin of the 47th, Hamilton of the 23rd, Day of the 163rd and others:

A BILL to be entitled an Act to amend Chapter 2 of Title 35 of the Official Code of Georgia Annotated, relating to the Department of Public Safety, so

as to create civilian weight inspectors for motor carriers; to provide for powers and duties; to provide for restrictions of power; to provide for related matters; to repeal conflicting laws; and for other purposes.

The following Senate legislation was introduced, read the first time and referred to committee:

SB 199. By Senators Wiles of the 37th, Harp of the 29th and Cowser of the 46th:

A BILL to be entitled an Act to amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to suspend for one year the otherwise required annual training for magistrates and probate judges; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Special Judiciary Committee.

SB 201. By Senators Balfour of the 9th, Buckner of the 44th, Williams of the 19th, Golden of the 8th, Mullis of the 53rd and others:

A BILL to be entitled an Act to amend Chapter 12 of Title 31 of the Official Code of Georgia Annotated, relating to control of hazardous conditions, preventable diseases, and metabolic disorders, so as to provide for voluntary contributions through individual income tax returns and other mechanisms for cancer research; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Health and Human Services Committee.

SB 202. By Senators Mullis of the 53rd, Pearson of the 51st, Murphy of the 27th, Rogers of the 21st and Shafer of the 48th:

A BILL to be entitled an Act to amend Code Section 48-7-40 of the Official Code of Georgia Annotated, relating to tax credits for certain business enterprises, so as to revise the definition of business enterprise to include businesses engaged in services for the elderly and persons with disabilities; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Finance Committee.

SB 203. By Senators Mullis of the 53rd, Thomas of the 54th and Smith of the 52nd:

A BILL to be entitled an Act to amend Title 27 of the Official Code of Georgia Annotated, relating to game and fish, so as to define a term; to change certain

provisions relating to taking of nongame species; to regulate the taking, possession, transportation, farming, and selling of fresh-water turtles; to provide for rules and regulations; to repeal conflicting laws; and for other purposes.

Referred to the Natural Resources and the Environment Committee.

SB 204. By Senators Shafer of the 48th and Smith of the 52nd:

A BILL to be entitled an Act to amend Chapter 8 of Title 19 of the Official Code of Georgia Annotated, relating to adoption, so as to provide a short title; to provide legislative findings; to provide definitions; to provide an exclusive means of adopting human embryos; to provide for the relinquishment of rights to such embryos; to provide for the status of prior agreements regarding such embryos; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Health and Human Services Committee.

SB 205. By Senators Chapman of the 3rd, Rogers of the 21st, Brown of the 26th, Murphy of the 27th, Hudgens of the 47th and others:

A BILL to be entitled an Act to amend Chapter 11 of Title 48 of the Official Code of Georgia Annotated, relating to taxes on tobacco products, so as to provide for utilization of digital based cigarette stamp processes; to provide a short title; to provide for dates and stages of implementation; to provide for related matters; to provide for a contingent effective date; to repeal conflicting laws; and for other purposes.

Referred to the Finance Committee.

SB 206. By Senators Goggans of the 7th, Hill of the 4th, Williams of the 19th, Rogers of the 21st, Cowser of the 46th and others:

A BILL to be entitled an Act to amend Part 1 of Article 4 of Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to management of budgetary and financial affairs by the Office of Planning and Budget, so as to require tax expenditure reviews as a part of the budget report; to provide for a definition; to provide for contents and requirements of each report; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Appropriations Committee.

SB 207. By Senator Wiles of the 37th:

A BILL to be entitled an Act to amend Chapter 11 of Title 15 of the O.C.G.A., relating to juvenile proceedings, so as to admit the general public to hearings in juvenile court with certain exceptions; to authorize a juvenile court to close a hearing under exceptional circumstances upon its own motion or by a motion of a party; to prohibit the media from publicizing the name, identity, or likeness of any child involved in a juvenile court proceeding; to prohibit the inspection of files and records by the general public of a proceeding in juvenile court without an order of the court; to permit certain persons and the Division of Family and Children Services to inspect files and records without an order of the court; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and

Referred to the Special Judiciary Committee.

SB 208. By Senator Thompson of the 33rd:

A BILL to be entitled an Act to provide for a short title; to provide for legislative findings; to amend Title 35 of the O.C.G.A., relating to law enforcement officers and agencies, so as to provide for parameters regarding the use of confidential informants; to require a law enforcement agency to notify a confidential informant of his or her right to legal counsel before executing an assistance agreement; to require certain record keeping; to provide requirements for the proper use of confidential informants; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

SR 392. By Senators Johnson of the 1st, Moody of the 56th and Shafer of the 48th:

A RESOLUTION proposing an amendment to the Constitution of the State of Georgia so as to provide that the re-creation of a previously existing county which was merged into another county may be accomplished by law, subject to the approval of the voters therein and subject to certain conditions; to provide for the status and effect of the implementing law; to provide for submission of this amendment for ratification or rejection; and for other purposes.

Referred to the State and Local Governmental Operations (General) Committee.

SR 399. By Senator Thomas of the 54th:

A RESOLUTION creating the Senate Study Committee on Georgia nonprofit Organizations and Their Governmental Partnerships; and for other purposes.

Referred to the Government Oversight Committee.

SR 402. By Senators Shafer of the 48th, Johnson of the 1st, Mullis of the 53rd, Williams of the 19th, Chapman of the 3rd and others:

A RESOLUTION creating the Joint Telecommunications Comprehensive Reform Study Committee; and for other purposes.

Referred to the Regulated Industries and Utilities Committee.

The following House legislation was read the first time and referred to committee:

HB 64. By Representative Sims of the 169th:

A BILL to be entitled an Act to amend Code Section 31-10-15 of the Official Code of Georgia Annotated, relating to death certificate filings, so as to provide for the completion of the medical certification as to the cause and circumstances of death during a certain period of time; to provide for penalties; to provide that a coroner shall be authorized to complete and sign a medical certification as to the cause and circumstances of death under certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Health and Human Services Committee.

HB 100. By Representatives Ehrhart of the 36th, Casas of the 103rd, Lunsford of the 110th and Lindsey of the 54th:

A BILL to be entitled an Act to amend Title 20 and Title 48 of the Official Code of Georgia Annotated, relating, respectively, to education and revenue and taxation, so as to revise and change certain provisions regarding educational improvement and student scholarship organizations; to change certain definitions; to change certain requirements regarding operation and taxation of student scholarship organizations; to provide for criminal penalties regarding student scholarship organization requirements; to revise and change certain provisions regarding the qualified education income tax credit; to provide an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

Referred to the Finance Committee.

HB 120. By Representatives Smith of the 70th, Dempsey of the 13th, Talton of the 145th, Harden of the 147th, Powell of the 171st and others:

A BILL to be entitled an Act to amend Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from state sales and use

tax, so as to provide for an exemption with respect to the sale of certain school supplies, clothing, footwear, computers, and computer related accessories for a limited period of time; to provide for an exemption from sales and use tax with respect to certain sales of certain energy efficient products for a limited period of time; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Finance Committee.

HB 156. By Representatives Harbin of the 118th, Anderson of the 117th and Sims of the 119th:

A BILL to be entitled an Act to amend Article 2 of Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to magistrates, so as to provide that elected magistrate judges who are performing ordered military duty may continue in office and be eligible for reelection during such duty; to provide for qualifying for election by mail, messenger, or agent during such duty; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Ethics Committee.

HB 167. By Representatives Jerguson of the 22nd, Hill of the 21st, Byrd of the 20th and Hamilton of the 23rd:

A BILL to be entitled an Act to amend an Act to create the State Court of Cherokee County, approved April 15, 1996 (Ga. L. 1996, p. 4427), so as to provide an additional judge for such court; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

HB 172. By Representatives Maxwell of the 17th, Benton of the 31st, Meadows of the 5th and Maddox of the 172nd:

A BILL to be entitled an Act to amend Code Section 47-2-125 of the Official Code of Georgia Annotated, relating to reexamination of persons receiving disability benefits under the Employees' Retirement System of Georgia, effect of refusal to undergo examination, and effect of ability to engage in gainful employment, so as to delete provisions providing for physical examinations done at a place convenient to the beneficiary; to provide that a beneficiary who has not reached the age of 60 shall submit to an examination; to provide that the amount earnable by certain disabled members shall include certain

payments that the beneficiary receives from workers' compensation; to repeal conflicting laws; and for other purposes.

Referred to the Retirement Committee.

HB 216. By Representatives Harden of the 147th, Roberts of the 154th, Pruett of the 144th and James of the 135th:

A BILL to be entitled an Act to amend Code Section 15-6-3 of the Official Code of Georgia Annotated, relating to terms of superior court, so as to change certain terms of court in the Cordele Judicial Circuit; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

HB 283. By Representatives Martin of the 47th, Harbin of the 118th, Oliver of the 83rd, Smith of the 113th and Willard of the 49th:

A BILL to be entitled an Act to amend Article 1 of Chapter 6 of Title 5 of the Official Code of Georgia Annotated, relating to general provisions pertaining to certiorari and appeals to appellate courts generally, so as to change certain provisions relating to filing fees for appeals to the Supreme Court and the Court of Appeals; to amend Code Section 15-19-2 of the Official Code of Georgia Annotated, relating to the rules governing the board of examiners, expenses of the board, and the amount and disposition of examination fees, so as to change certain provisions relating to bar examination fees; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

HB 331. By Representative Martin of the 47th:

A BILL to be entitled an Act to amend Article 1 of Chapter 6 of Title 5 of the Official Code of Georgia Annotated, relating to general provisions pertaining to certiorari and appeals to appellate courts generally, so as to change certain provisions relating to filing fees for appeals to the Supreme Court and the Court of Appeals; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

HB 343. By Representatives Collins of the 27th, Chambers of the 81st, Martin of the 47th, Hamilton of the 23rd, Day of the 163rd and others:

A BILL to be entitled an Act to amend Chapter 2 of Title 35 of the Official Code of Georgia Annotated, relating to the Department of Public Safety, so as to create civilian weight inspectors for motor carriers; to provide for powers and duties; to provide for restrictions of power; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Public Safety Committee.

The following committee reports were read by the Secretary:

Mr. President:

The Health and Human Services Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SB 159	Do Pass	SR 291	Do Pass
SB 163	Do Pass	SR 300	Do Pass
SR 263	Do Pass		

Respectfully submitted,
Senator Thomas of the 54th District, Chairman

Mr. President:

The Insurance and Labor Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SB 144	Do Pass by substitute
SR 108	Do Pass
SR 273	Do Pass

Respectfully submitted,
Senator Hudgens of the 47th District, Chairman

Mr. President:

The Natural Resources and the Environment Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SB 15 Do Pass by substitute
SR 304 Do Pass

Respectfully submitted,
Senator Tolleson of the 20th District, Chairman

Mr. President:

The Public Safety Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SB 102 Do Pass by substitute

Respectfully submitted,
Senator Murphy of the 27th District, Chairman

Mr. President:

The Special Judiciary Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

HB 117 Do Pass
SB 115 Do Pass
SB 151 Do Pass by substitute

Respectfully submitted,
Senator Wiles of the 37th District, Chairman

Mr. President:

The State Institutions and Property Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SR 294 Do Pass

Respectfully submitted,
Senator Grant of the 25th District, Chairman

Mr. President:

The State and Local Governmental Operations Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

HB 373 Do Pass
 HB 378 Do Pass
 SB 154 Do Pass

Respectfully submitted,
 Senator Hawkins of the 49th District, Chairman

The following legislation was read the second time:

HB 233	SB 69	SB 146	SB 157	SB 165	SR 156
SB 2	SB 78	SB 156			

The following Senators were excused for business outside the Senate Chamber:

Hamrick of the 30th Thompson of the 5th Unterman of the 45th

Senator Seay of the 34th asked unanimous consent that Senator Reed of the 35th be excused. The consent was granted, and Senator Reed was excused.

Senator Fort of the 39th asked unanimous consent that Senator Ramsey of the 43rd be excused. The consent was granted, and Senator Ramsey was excused.

Senator Tate of the 38th asked unanimous consent that Senator Henson of the 41st be excused. The consent was granted, and Senator Henson was excused.

The roll was called and the following Senators answered to their names:

Buckner	Heath	Rogers
Bulloch	Hill,Jack	Seabaugh
Butler	Hill,Judson	Seay
Butterworth	Hooks	Shafer
Chance	Hudgens	Sims
Chapman	Jackson,L	Smith
Cowsert	Jackson,W	Staton
Crosby	Johnson	Stoner
Douglas	Jones	Tarver
Goggans	Moody	Tate
Golden	Mullis	Thomas
Grant	Murphy	Thompson,S
Harbison	Orrock	Tolleson
Harp	Pearson	Weber
Hawkins	Powell	Wiles

Not answering were Senators:

Adelman	Balfour	Brown
Fort	Hamrick (Excused)	Henson (Excused)
Ramsey (Excused)	Reed (Excused)	Thompson, C. (Excused)
Unterman (Excused)	Williams (Presiding)	

The members pledged allegiance to the flag.

Senator Douglas of the 17th introduced the chaplain of the day, Reverend Shirley Carpenter of Locust Grove, Georgia, who offered scripture reading and prayer.

The President assumed the Chair.

The following resolutions were read and adopted:

SR 393. By Senator Chance of the 16th:

A RESOLUTION recognizing and commending Devin Philip Kubit; and for other purposes.

SR 394. By Senator Weber of the 40th:

A RESOLUTION recognizing March 2, 2009, as Georgia Association of Educators (GAE) Legislative Conference Day; and for other purposes.

SR 395. By Senator Douglas of the 17th:

A RESOLUTION honoring the life and memory of Mr. Ronald E. Carter; and for other purposes.

SR 396. By Senator Harbison of the 15th:

A RESOLUTION recognizing members of the Castille family on their football legacy; and for other purposes.

SR 397. By Senator Harbison of the 15th:

A RESOLUTION recognizing and commending Mr. Michael Grant, Jr.; and for other purposes.

SR 398. By Senator Thomas of the 54th:

A RESOLUTION recognizing February 25, 2009, as Skin Cancer Awareness Day at the state capitol; and for other purposes.

SR 400. By Senator Thomas of the 54th:

A RESOLUTION commending the members of the Junior Beta Club of Bagley Middle School; and for other purposes.

SR 401. By Senator Brown of the 26th:

A RESOLUTION honoring the life and memory of Dr. Harold C. Johnson; and for other purposes.

SR 403. By Senators Hill of the 4th, Williams of the 19th, Hudgens of the 47th, Wiles of the 37th, Tolleson of the 20th and others:

A RESOLUTION honoring the life and memory of Dr. Michael Guido; and for other purposes.

SR 404. By Senator Hill of the 32nd:

A RESOLUTION recognizing and commending Ge Zhang; and for other purposes.

Senator Cowsert of the 46th recognized Dr. David L. Levine as the Distinguished Older Georgian for 2009, commended by SR 355, adopted previously. Dr. David L. Levine addressed the Senate briefly.

Senator Tate of the 38th honored the life of Lithangia S. Robinson and recognized the week of February 24, 2009, as Senior Week at the state capitol.

Senator Thomas of the 54th recognized February 25, 2009, as Skin Cancer Awareness Day at the state capitol, commended by SR 398, adopted previously. Dr. Chiller addressed the Senate briefly.

The following local, uncontested legislation, favorably reported by the committee as listed on the Local Consent Calendar, was put upon its passage:

SENATE LOCAL CONSENT CALENDAR

Wednesday, February 25, 2009
Twenty-third Legislative Day

(The names listed are the Senators whose districts are affected by the legislation.)

SB 154

Seabaugh of the 28th
Harp of the 29th
Hamrick of the 30th

COWETA JUDICIAL CIRCUIT

A BILL to be entitled an Act to amend an Act providing a supplemental salary for the judges of the Superior Court of the Coweta Judicial Circuit, approved December 11, 1953 (Ga. L. 1953, Nov.-Dec. Sess., p. 92), as amended, particularly by an Act approved April 2, 1998 (Ga. L. 1998, p. 4254), so as to change the supplemental salaries for such judges; to provide for the apportionment of such supplement among the counties in the circuit; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 373

Murphy of the 27th
Pearson of the 51st

FORSYTH COUNTY

A BILL to be entitled an Act to amend an Act providing for the Board of Education of Forsyth County, approved March 24, 1992 (Ga. L. 1992, p. 5052), as amended, so as to provide for the election of the members of the board of education by district; to provide for preclearance under Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 378

Murphy of the 27th
Pearson of the 51st

FORSYTH COUNTY

A BILL to be entitled an Act to amend an Act creating a board of commissioners for Forsyth County, approved June 30, 1964 (Ga. L. 1964, Ex. Sess., p. 2225), as amended, particularly by an Act approved April 25, 2002 (Ga. L. 2002, p. 4924), so as to provide that members of the board of commissioners shall be elected by the voters of their respective districts; to provide for preclearance under Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the committee, which was favorable to the passage of the local legislation as reported, was agreed to.

On the passage of the legislation, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hawkins	Y Rogers
Y Balfour	Y Heath	Y Seabaugh
Brown	E Henson	Y Seay
Y Buckner	Y Hill,Jack	Y Shafer
Y Bulloch	Y Hill,Judson	Y Sims
Y Butler	Y Hooks	Y Smith
Y Butterworth	Y Hudgens	Y Staton
Y Chance	Jackson,L	Stoner
Y Chapman	Jackson,W	Y Tarver
Y Cowsert	Y Johnson	Y Tate
Crosby	Y Jones	Y Thomas
Y Douglas	Y Moody	E Thompson,C
Y Fort	Mullis	Y Thompson,S
Y Goggans	Y Murphy	Tolleson
Y Golden	Y Orrock	E Unterman
Y Grant	Y Pearson	Y Weber
E Hamrick	Powell	Y Wiles
Y Harbison	Y Ramsey	Y Williams
Y Harp	Y Reed	

On the passage of the local legislation, the yeas were 44, nays 0.

The legislation on the Local Consent Calendar, having received the requisite constitutional majority, was passed.

Senator Butler of the 55th asked unanimous consent that Senator Brown of the 26th be excused. The consent was granted, and Senator Brown was excused.

SENATE RULES CALENDAR
WEDNESDAY, FEBRUARY 25, 2009
TWENTY-THIRD LEGISLATIVE DAY

- SB 59 Electronic Mail Fraud; definitions; prohibit a person from using certain computers to retransmit commercial email to deceive recipients (S&T-18th)
- SB 84 Local Boards of Education; election; revise provisions (Substitute) (ED&Y-31st)
- SB 104 Cosmetic Laser Practitioners; licensing; change certain provisions; amend definitions; consulting physicians (Substitute)(RI&U-37th)

- SB 97 O.C.G.A.; change the designation of the State Merit System of Personnel Administration to State Personnel Administration (S JUDY-25th)
- SB 98 Retirement; State Merit of Personnel Admin. to State Personnel Administration; change certain references (S JUDY-25th)
- SB 95 Insurance; establish unfair trade practice to fail to consider suitability for a person 65 years of age or older (I&L-47th)
- SB 23 Safety Belts; provide failure to use may be considered evidence of causation, negligence (Substitute)(JUDY-49th)
- SB 133 Health Share Volunteers in Medicine Act; provide certain compensation; health care provider; sovereign immunity protection (Substitute) (H&HS-49th)
- SB 123 Pharmacy Benefits Managers; provide for regulation and licensure by the Commissioner of Insurance; definitions; license requirements/filing fees (I&L-49th)

Respectfully submitted,

/s/ Balfour of the 9th, Chairman
Senate Rules Committee

The following legislation was read the third time and put upon its passage:

- SB 59. By Senators Staton of the 18th, Heath of the 31st, Powell of the 23rd, Orrock of the 36th, Douglas of the 17th and others:

A BILL to be entitled an Act to amend Part 4 of Article 6 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated, relating to Internet and electronic mail fraud, so as to provide definitions; to prohibit a person from using certain computers to relay or retransmit commercial e-mail messages with the intent to deceive or mislead recipients or an e-mail service provider under certain circumstances; to prohibit a person from materially falsifying header information in commercial e-mail messages under certain circumstances; to prohibit a person from registering for e-mail accounts or domain names under certain circumstances; to provide for criminal and civil penalties; to provide for forfeiture; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the committee, which was favorable to the passage of the bill, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hawkins	Y Rogers
Y Balfour	Y Heath	Y Seabaugh
E Brown	E Henson	Y Seay
Y Buckner	Y Hill,Jack	Y Shafer
Y Bulloch	Y Hill,Judson	Y Sims
Y Butler	Y Hooks	Y Smith
Y Butterworth	Y Hudgens	Y Staton
Y Chance	Y Jackson,L	Y Stoner
Y Chapman	Y Jackson,W	Y Tarver
Y Cowsert	Y Johnson	Y Tate
Y Crosby	Y Jones	Y Thomas
Y Douglas	Y Moody	E Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Murphy	Y Tolleson
Y Golden	Y Orrock	E Unterman
Y Grant	Y Pearson	Y Weber
E Hamrick	Y Powell	Y Wiles
Y Harbison	Y Ramsey	Y Williams
Y Harp	Y Reed	

On the passage of the bill, the yeas were 51, nays 0.

SB 59, having received the requisite constitutional majority, was passed.

Senator Jones of the 10th introduced the doctor of the day, Dr. Sam Lorenzo.

The following Senators were excused for business outside the Senate Chamber:

Adelman of the 42nd Chance of the 16th

The Calendar was resumed.

Senator Ramsey of the 43rd asked unanimous consent that he be excused from voting on SB 84 pursuant to Senate Rule 5-1.8(d). The consent was granted, and Senator Ramsey was excused.

SB 84. By Senators Heath of the 31st, Williams of the 19th, Cowsert of the 46th, Rogers of the 21st, Johnson of the 1st and others:

A BILL to be entitled an Act to amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education,

so as to revise provisions relating to eligibility for election as a local board of education member; to provide for legislative findings; to limit the size of local boards of education; to revise provisions relating to per diem and expenses of local board of education members; to revise certain provisions relating to the secretary of local boards of education; to provide for the fundamental roles of local boards of education and local school superintendents; to prohibit certain conflicts of interest of board members; to provide for a code of ethics for local board of education members; to provide for related matters; to repeal conflicting laws; and for other purposes.

The Senate Education and Youth Committee offered the following substitute to SB 84:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, so as to revise provisions relating to eligibility for election as a local board of education member; to provide for legislative findings; to limit the size of local boards of education; to revise provisions relating to per diem and expenses of local board of education members; to revise certain provisions relating to the secretary of local boards of education; to provide for the fundamental roles of local boards of education and local school superintendents; to prohibit certain conflicts of interest of board members; to provide for a code of ethics for local board of education members; to provide for removal of board members under certain circumstances; to revise provisions relating to eligibility for appointment as a school superintendent; to revise provisions relating to training of local board of education members; to provide for submission of certain provisions of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, is amended by adding a new Code section to Article 3, relating to local boards of education, to read as follows:

"20-2-49.

The General Assembly finds that local boards of education play a critical role in setting the policies that lead to the operation and success of local school systems. School board members hold special roles as trustees of public funds, including local, state, and federal funds, while they focus on the singular objective of ensuring each student in the local school system receives a quality basic education. Board duties require specialized skills and training in the performance of vision setting, policy making, approving

multimillion dollar budgets, and hiring a qualified superintendent. The motivation to serve as a member of a local board of education should be the improvement of schools and academic achievement of all students. Service on a local board of education is important citizen service. Given the specialized nature and unique role of membership on a local board of education, this elected office should be characterized and treated differently from other elected offices where the primary duty is independently to represent constituent views. Local board of education members, similar to judges and district attorneys, should abide by a code of conduct and conflict of interest policy modeled for their unique roles and responsibilities. And although there are many measures of the success of a local board of education, one is clearly essential: maintaining accreditation and the opportunities it allows the school system's students."

SECTION 2.

Said chapter is further amended by revising Code Section 20-2-51, relating to election of county board of education members, persons ineligible to be members or superintendent, ineligibility for local boards of education, and ineligibility for other offices, as follows:

"20-2-51.

(a) No person shall be eligible for election as a member of a local board of education who is not a resident of the school district in which that person seeks election and of the election district which such person seeks to represent. Whenever there is in a portion of any county a local school system having a board of education of its own, receiving its pro rata of the public school fund directly from the State School Superintendent and having no dealings whatever with the local board, then the members of the board of such county shall be selected from that portion of the county not embraced within the territory covered by such local system.

(b) Whenever a member of a local board of education moves that person's domicile from the district which that person represents, such person shall cease to be a member of such local board of education, and a vacancy shall occur.

~~(c) No person employed by or serving on the governing body of a private educational institution shall be eligible to serve as a member of a local board of education.~~

(1) No person employed by a local board of education shall be eligible to serve as a member of that board of education.

(2) No person employed by the Department of Education or serving as a member of the State Board of Education shall be eligible to serve as a member of a local board of education.

(3) No person who has an immediate family member sitting on a local board of education or serving as the local school superintendent or as a principal, assistant principal, or system administrative staff in the local school system shall be eligible to serve as a member of such local board of education. As used in this paragraph, the term 'immediate family member' means a spouse, child, sibling, or parent or the spouse of a child, sibling, or parent. This paragraph shall apply only to local board of education members elected or appointed on or after July 1, 2009. Nothing in this Code section shall affect the employment of any person who is employed by a local

school system on or before July 1, 2009, or who is employed by a local school system when an immediate family member becomes a local board of education member for that school system.

~~This subsection shall not apply to institutions above the high school level.~~

(d) In all counties of this state having a population of not less than 500,000 or more than 600,000 according to the United States decennial census of 1990 or any future such census, the members of the county boards of education taking office after December 1, 1975, shall not hold any other elective governmental office. If any member of any such board should qualify at any time after December 1, 1975, for nomination or election to any other elective governmental office other than for membership on such county board, such member's position on such county board shall thereby become vacant. Such vacancy shall be filled as provided by the law applicable to any such county board.

(e) No person shall be eligible for election as a member of a local board of education unless he or she:

(1) Is a citizen of the United States;

(2) Is a registered voter;

(3) Has read and understands the code of ethics and the conflict of interest provisions applicable to members of local boards of education and has agreed to abide by them; and

(4) Has agreed to annually disclose compliance with the State Board of Education's policy on training for members of local boards of education, the code of ethics of the local board of education, and the conflict of interest provisions applicable to members of local boards of education.

Each person offering his or her candidacy for election as a member of a local board of education shall file an affidavit with the officer before whom such person has qualified for such election prior to or at the time of qualifying, which affidavit shall affirm that he or she meets all of the qualifications required pursuant to this subsection. This subsection shall apply only to local board of education members elected or appointed on or after July 1, 2009.

(f) No person who has been judicially determined to be mentally incompetent shall be eligible for election as a member of a local board of education unless the disability determination has been removed. This subsection shall apply only to local board of education members elected or appointed on or after July 1, 2009."

SECTION 3.

Said chapter is further amended by revising Code Section 20-2-52, relating to terms of office of members of local boards of education, as follows:

"20-2-52.

(a) Members of local boards of education shall be elected for terms of four years unless their terms are otherwise provided by local Act or constitutional amendment.

(b)(1) Each local board of education shall have no more than seven members as provided by local Act.

(2) This subsection shall not apply to a local board of education whose board size exceeds seven members as provided by local constitutional amendment or federal court order or pursuant to a local law in effect prior to July 1, 2009; provided, however, that if the local law of any such local board of education is amended to revise the number of members on such board, paragraph (1) of this subsection shall apply."

SECTION 4.

Said chapter is further amended by revising subsection (a) of Code Section 20-2-55, relating to per diem, insurance, and expenses of local board members, as follows:

"(a)(1) In any local school system for which no local Act is passed, members of the local board of education shall, when approved by the local board affected, receive a per diem of \$50.00 for each day of attendance at meetings of the board and while meeting and traveling within or outside the state as a member of a committee of the board on official business first authorized by a majority of the board, plus reimbursement for actual expenses necessarily incurred in connection therewith; provided, however, that in any independent school system with a full-time equivalent (FTE) program count of less than 4,000 students for which no local Act is passed, members of the local board of education may, when approved by the affected local board, receive a per diem of not less than \$50.00 and not more than \$100.00 for each day of attendance at meetings of the board and while meeting and traveling within or outside the state as a member of a committee of the board, plus reimbursement for actual expenses. The accounts for such service and expenses shall be submitted for approval to the local school superintendent. In all school districts, the compensation of members of local boards shall be paid only from the local tax funds available to local boards for educational purposes. This paragraph shall apply only to local board of education members elected or appointed prior to July 1, 2009.

(2) In any local school system for which no local Act is passed, members of the local board of education shall, when approved by the local board affected, receive a per diem of \$50.00 for each day of attendance at a meeting, as defined in paragraph (2) of subsection (a) of Code Section 50-14-1, of the board, plus reimbursement for actual expenses necessarily incurred in connection therewith; provided, however, that in any independent school system with a full-time equivalent (FTE) program count of less than 4,000 students for which no local Act is passed, members of the local board of education may, when approved by the affected local board, receive a per diem of not less than \$50.00 and not more than \$100.00 for each day of attendance at a meeting, as defined in paragraph (2) of subsection (a) of Code Section 50-14-1, of the board, plus reimbursement for actual expenses. The accounts for such service and expenses shall be submitted for approval to the local school superintendent. In all school districts, the compensation of members of local boards shall be paid only from the local tax funds available to local boards for educational purposes. This paragraph shall apply only to local board of education members elected or appointed on or after July 1, 2009."

SECTION 5.

Said chapter is further amended by revising subsection (a) of Code Section 20-2-57, relating to organization of county boards of education, as follows:

"(a) Unless otherwise provided by local law or, in the absence of local law, by local board policy, upon being called together by one of their number, the members of the local board shall organize by selecting one of their number as chairperson to serve as such during the term for which that person was chosen as a member of the local board. The local school superintendent shall act as secretary of the local board, ex officio. A majority of the local board shall constitute a quorum for the transaction of business. The votes of a majority of the members present shall be necessary for the transaction of any business or discharge of any duties of the local board of education, provided there is a quorum present. Any action taken by less than a majority of the board members may be rescinded by a majority of the board members at the next regular meeting or within 30 days of such action, whichever is later. It shall be the duty of the superintendent ~~or the board's nominee~~ as secretary to be present at the meetings of the local board, to keep the minutes of its meetings and make a permanent record of them, and to do any other clerical work it may direct the superintendent to do. The superintendent ~~or the board's nominee~~ shall ~~record~~ cause to be recorded in a book, to be provided for the purpose, all official proceedings of the local board, which shall be a public record open to the inspection of any person interested therein; and all such proceedings, when so recorded, shall be signed by the chairperson and countersigned by the secretary."

SECTION 6.

Said chapter is further amended by revising Code Section 20-2-61, which is reserved, as follows:

"20-2-61.

~~Reserved.~~

(a) The fundamental role of a local board of education shall be to establish policy for the local school system. The fundamental role of a local school superintendent shall be to implement the policy established by the local board. It shall not be the role of the local board of education or individual members of such board to micromanage the superintendent in executing his or her duties, but it shall be the duty of the local board to hold the local school superintendent accountable in the performance of his or her duties. Local board of education members shall be required to work together with the entire local board of education and shall not have authority as independent elected officials but shall only be authorized to take official action as members of the board as a whole. Nothing in this subsection shall be construed to alter, limit, expand, or enlarge any powers, duties, or responsibilities of local boards of education, local board members, or local school superintendents.

(b) Except as may be allowed by law, no local board of education shall delegate or attempt to delegate its policy-making functions."

SECTION 7.

Said chapter is further amended by revising Code Section 20-2-63, which is reserved, as follows:

"20-2-63.

~~Reserved.~~

(a)(1) No local board of education member or member of his or her immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity which is in substantial conflict with the proper discharge of his or her duties in the public interest. Compliance with Code Section 20-2-505 shall not constitute a violation of this paragraph.

(2) No local board of education member shall use or attempt to use his or her official position to secure unwarranted privileges, advantages, or employment for himself or herself, members of his or her immediate family, or others.

(3) No local board of education member shall act in his or her official capacity in any matter where he or she, a member of his or her immediate family, or a business organization in which he or she has an interest has a direct or material indirect financial interest that might reasonably be expected to impair his or her objectivity or independence of judgment.

(4) No local board of education member shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his or her independence of judgment in the exercise of his or her official duties.

(5) No local board of education member, or member of his or her immediate family, or business organization in which he or she has an interest shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing him or her, directly or indirectly, in the discharge of his or her official duties. This paragraph shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office if the local board of education member has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the local board of education member in the discharge of his or her official duties.

(6) No local board of education member shall use, or allow to be used, his or her official position or any information not generally available to the members of the public which he or she receives or acquires in the course of and by reason of his or her official position for the purpose of securing financial gain for himself or herself, any member of his or her immediate family, or any business organization with which he or she is associated.

(7) No local board of education member or business organization in which he or she has an interest shall represent any person or party other than the local board of education or local school system in connection with any cause, proceeding, application, or other matter pending before the local school system in which he or she

serves or in any proceeding involving the local school system in which he or she serves.

(8) No local board of education member shall be prohibited from making an inquiry for information on behalf of a constituent if no fee, reward, or other thing of value is promised to, given to, or accepted by the local board of education member or a member of his or her immediate family, whether directly or indirectly, in return therefor.

(9) No local board of education member shall disclose or discuss any information which is subject to attorney-client privilege belonging to the local board of education to any person other than other board members, the board attorney, the local school superintendent, or persons designated by the local school superintendent for such purposes unless such privilege has been waived by a majority vote of the whole board.

(10) No member of a local board of education may jointly serve as an officer of that local board and, at the same time, be an officer of any organization that sells goods or services to that local school system, except as provided in Code Section 20-2-505.

(11) No local board of education member shall be deemed in conflict with this subsection if, by reason of his or her participation in any matter required to be voted upon, no material or monetary gain accrues to him or her as a member of any profession, occupation, or group to any greater extent than any gain could reasonably be expected to accrue to any other member of that profession, occupation, or group.

(b) Upon a motion supported by majority vote, a local board of education may choose to conduct a hearing concerning the violation by a local board of education member of any conflict of interest provision in subsection (a) of this Code section. The local board of education member accused of violating said provision shall have 30 days notice prior to a hearing on the matter. Said accused member may bring witnesses on his or her behalf, and the local board of education may call witnesses to inquire into the matter. If it is found by a vote of two-thirds of all the members of the board that the accused member has violated a conflict of interest provision contained in subsection (a) of this Code section, the local board shall determine an appropriate sanction, up to and including removal from office. A board member removed from office pursuant to this Code section may, within 30 days of such removal vote, appeal such decision to the State Board of Education, which shall be empowered to affirm or reverse the decision to remove such board member. The State Board of Education shall promulgate rules governing such appeal process. If a sanctioned member appeals his or her removal to the State Board of Education, that member shall remain a board member with full voting rights unless and until the State Board of Education upholds his or her removal. If the sanctioned member is removed from office, the resulting vacancy shall be filled in accordance with Code Section 20-2-54.1. The accused member shall abstain from any vote taken pursuant to this subsection. This subsection shall apply only to local board of education members elected or appointed on or after July 1, 2009.

(c) As used in this Code section, the term 'immediate family member' means a spouse, child, sibling, or parent or the spouse of a child, sibling, or parent."

SECTION 8.

Said chapter is further amended by adding new Code sections to Article 3, relating to local boards of education, to read as follows:

"20-2-72.

(a) The State Board of Education shall adopt a model code of ethics for members of local boards of education. Such model code of ethics shall also include appropriate consequences for violation of a provision or provisions of such code. The State Board of Education may periodically adopt revisions to such model code as it deems necessary.

(b) Within three months of adoption by the State Board of Education of a model code of ethics pursuant to subsection (a) of this Code section, each local board of education shall adopt a code of ethics that includes, at a minimum, such model code of ethics. Each local board of education shall incorporate into its code of ethics any revisions adopted by the State Board of Education to the model code of ethics pursuant to subsection (a) of this Code section within three months of adoption of such revisions.

20-2-73.

(a) Notwithstanding Code Section 20-2-54.1 or any other provisions of law to the contrary, if a local school system or school is placed on probation or the equivalent level of accreditation immediately preceding loss of accreditation by one or more accrediting agencies included in subparagraph (6.1)(A) of Code Section 20-3-519, the Governor may, in his or her sole discretion, suspend the members of the local board of education with pay and appoint temporary replacement members who shall be otherwise qualified to serve as members of such board.

(b) Any local board of education member suspended under this Code section may petition the Governor for reinstatement no earlier than 90 days following suspension and no later than 120 days following suspension. In the event that a suspended member does not petition for reinstatement within the allotted time period, his or her suspension shall be converted into permanent removal, and the temporary replacement member shall become a permanent member and serve out the remainder of the term of the removed member.

(c) Upon petition for reinstatement by a suspended local board of education member, the Governor or his or her designated agent shall conduct a hearing for the purpose of receiving evidence relative to whether the local board of education member's continued service on the local board of education is more likely than not to improve the ability of the local school system or school to retain its accreditation. The appealing member shall be given at least 30 days notice prior to such hearing. Such hearing shall be held in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that the individual conducting the hearing shall have the power to call witnesses and request documents on his or her own initiative. For purposes of said chapter and any hearing conducted pursuant to this Code section, the Governor shall be considered the 'agency' and the Attorney General or his or her designee shall represent the interests of the Governor in the hearing. If it is determined that it is more likely than not that the

local board of education member's continued service on the local board of education improves the ability of the local school system or school to retain its accreditation, the member shall be immediately reinstated; otherwise, the member shall be permanently removed, and the temporary replacement member shall become a permanent member and serve out the remainder of the term of the removed member. Judicial review of any such decision shall be in accordance with Chapter 13 of Title 50.

(d) This Code section shall apply only to local board of education members elected or appointed on or after July 1, 2009."

SECTION 9.

Said chapter is further amended by revising subsection (b) of Code Section 20-2-101, relating to appointment of county school superintendents, as follows:

"(b)(1) No person shall be eligible to be appointed or employed as superintendent of schools of any county or independent school system unless such person is of good moral character, has never been convicted of any crime involving moral turpitude, and possesses acceptable business or management experience as specified by the Professional Standards Commission or the minimum valid certificate or a letter of eligibility for said certificate required by the Professional Standards Commission.

(2) No person shall be eligible to be appointed, employed, or to serve as superintendent of schools of any county or independent school system who has an immediate family member sitting on the local board of education for such school system or who has an immediate family member hired as or promoted to a principal, assistant principal, or system administrative staff on or after July 1, 2009, by that school system. As used in this subsection, the term 'immediate family member' shall have the same meaning as in subsection (c) of Code Section 20-2-51. Nothing in this Code section shall affect the employment of any person who is employed by a local school system on or before July 1, 2009, or who is employed by a local school system when an immediate family member becomes the superintendent for that school system."

SECTION 10.

Said chapter is further amended by revising subsection (b) of Code Section 20-2-230, relating to staff development programs, as follows:

"(b)(1) The State Board of Education shall adopt a training program for members of local boards of education. The State Board of Education may periodically adopt revisions to such training program as it deems necessary.

(2) Within three months of adoption by the State Board of Education of a training program pursuant to paragraph (1) of this subsection, each local board of education and each governing board of other local units of administration shall adopt a training program for members of such boards that includes, at a minimum, such training program and requirements established by the State Board of Education pursuant to paragraph (1) of this subsection. Each local board of education shall incorporate any revisions adopted by the State Board of Education to the training program pursuant to paragraph (1) of this subsection within three months of adoption of such revisions. All

~~new members of governing boards of local units of administration shall, before or within one year after assuming office, receive at least 12 hours of orientation to the educational program objectives of Georgia and instruction in school finance; school law, with special emphasis on the 'Quality Basic Education Act'; responsiveness to the community; the ethics, duties, and responsibilities of local governing board members; annual performance evaluation of the school superintendent and the local board of education; and such other topics as the State Board of Education may deem to be necessary; provided, however, that at least six of these 12 hours of training shall be specifically related to education finance, generally accepted accounting principles, and budgeting. The board of education of the Department of Juvenile Justice shall be exempt from the six hours of training in education finance, generally accepted accounting principles, and budgeting. All members of boards of local units of administration are required to participate in at least one day of training annually to ensure the effective management and operation of local units of administration. The Georgia Education Leadership Academy is authorized, in cooperation with the Georgia School Boards Association or other agencies and associations, to conduct workshops annually to provide such instruction and to present to each board member completing such annual workshop for the first time an appropriate certificate. The Georgia Education Leadership Academy shall adopt such procedures as may be necessary to verify the attendance at such annual workshops of veteran members of boards of local units of administration.~~

(3) All boards of local units of administration are authorized to pay such board members for attendance at a required training program the same per diem as authorized by local or general law for attendance at regular ~~or special~~ meetings, as well as reimbursement of actual expenses for travel, lodging, meals, and registration fees for such ~~workshops~~ training, either before or after such board members assume office."

SECTION 11.

The Attorney General of Georgia shall cause Sections 2, 3, 7, and 8 of this Act to be submitted for preclearance under the federal Voting Rights Act of 1965, as amended, and such submission shall be made to the United States Department of Justice or filed with the appropriate court no later than 45 days after the date on which this Act is approved by the Governor or becomes law without such approval. If, as of June 30, 2010, implementation of any of the submitted sections of this Act are not permissible under the Voting Rights Act of 1965, as amended, then as of such date, such section or sections of this Act shall be void and shall stand repealed in their entirety.

SECTION 12.

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

Senator Weber of the 40th offered the following amendment #1 to the committee substitute:

Amend SB 84 LC 33 2999S by on line 239 (p.7), add after "Code Section 20-2-505":

"and excluding non-profit membership organizations."

On the adoption of the amendment, there were no objections, and the Weber amendment #1 to the committee substitute was adopted.

Senators Buckner of the 44th, Tate of the 38th, Adelman of the 42nd, Seay of the 34th, Butler of the 55th and others offered the following amendment #2 to the committee substitute:

Amend the Senate Education and Youth Committee substitute to SB 84 (LC 33 2999S) by replacing line 32 with the following:

Local board of education members shall abide

By inserting after the period at the end of line 52 the following:

The school board member shall immediately notify the secretary of the board and the county elections superintendent that he or she has moved from the district.

On the adoption of the amendment, the President asked for unanimous consent.

Senator Seabaugh of the 28th objected.

On the adoption of the amendment, Senator Buckner of the 44th called for the yeas and nays; the call was sustained, and the vote was as follows:

E Adelman	N Hawkins	N Rogers
Y Balfour	N Heath	N Seabaugh
E Brown	E Henson	Y Seay
Y Buckner	Hill,Jack	N Shafer
N Bulloch	N Hill,Judson	Y Sims
Y Butler	Y Hooks	N Smith
N Butterworth	N Hudgens	N Staton
E Chance	Y Jackson,L	Y Stoner
N Chapman	Y Jackson,W	Y Tarver
N Cowsert	Y Johnson	Y Tate
N Crosby	Y Jones	N Thomas
N Douglas	N Moody	Y Thompson,C
Y Fort	N Mullis	Y Thompson,S
N Goggans	N Murphy	N Tolleson
Y Golden	Y Orrock	E Unterman
N Grant	N Pearson	N Weber
E Hamrick	Y Powell	N Wiles
Y Harbison	E Ramsey	N Williams
Y Harp	Y Reed	

On the adoption of the amendment, the yeas were 22, nays 26, and the Buckner et al. amendment #2 to the committee substitute was lost.

Senators Buckner of the 44th, Seay of the 34th and Tate of the 38th offered the following amendment #3 to the committee substitute:

Amend the Senate Education and Youth Committee substitute to SB 84 (LC 33 2999S) by replacing line 32 with the following:

By inserting on line 287 after "and" the following:

the grand jury of the county in which the school district is located shall

On the adoption of the amendment, the President asked for unanimous consent.

Senator Heath of the 31st objected.

On the adoption of the amendment, Senator Buckner of the 44th called for the yeas and nays; the call was sustained, and the vote was as follows:

E Adelman	N Hawkins	N Rogers
N Balfour	N Heath	N Seabaugh
E Brown	E Henson	Y Seay
Y Buckner	Hill,Jack	N Shafer
N Bulloch	N Hill,Judson	Y Sims
Y Butler	Y Hooks	N Smith
N Butterworth	N Hudgens	N Staton
E Chance	Y Jackson,L	Y Stoner
Y Chapman	N Jackson,W	Y Tarver
N Cowsert	N Johnson	Y Tate
N Crosby	Y Jones	N Thomas
N Douglas	N Moody	Y Thompson,C
Y Fort	N Mullis	Y Thompson,S
N Goggans	N Murphy	N Tolleson
Y Golden	Y Orrock	E Unterman
N Grant	N Pearson	N Weber
E Hamrick	Y Powell	N Wiles
Y Harbison	E Ramsey	N Williams
N Harp	Y Reed	

On the adoption of the amendment, the yeas were 19, nays 29, and the Buckner et al. amendment #3 to the committee substitute was lost.

On the adoption of the substitute, there were no objections, and the committee substitute was adopted as amended.

The report of the committee, which was favorable to the passage of the bill by substitute, was agreed to as amended.

On the passage of the bill, a roll call was taken, and the vote was as follows:

N Adelman	Y Hawkins	Y Rogers
Y Balfour	Y Heath	Y Seabaugh
E Brown	E Henson	N Seay
Y Buckner	Hill,Jack	Y Shafer
Y Bulloch	Y Hill,Judson	Y Sims
N Butler	Y Hooks	Y Smith
Y Butterworth	Y Hudgens	Y Staton
E Chance	N Jackson,L	N Stoner
Y Chapman	Y Jackson,W	N Tarver
Y Cowsert	Y Johnson	N Tate
Y Crosby	N Jones	Y Thomas
Y Douglas	Y Moody	N Thompson,C
N Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Murphy	Y Tolleson
N Golden	N Orrock	E Unterman
Y Grant	Y Pearson	Y Weber
E Hamrick	N Powell	Y Wiles
N Harbison	E Ramsey	Y Williams
Y Harp	Y Reed	

On the passage of the bill, the yeas were 35, nays 14.

SB 84, having received the requisite constitutional majority, was passed by substitute.

The following communication was received by the Secretary:

Senator Jack Hill
 District 4
 234 State Capitol
 Atlanta, GA 30334

Committees:

Appropriations
 Ethics
 Natural Resources and the Environment
 Regulated Industries and Utilities
 Rules
 Assignments
 Finance

The State Senate
 Atlanta, Georgia 30334

2/25/09

Mr. Secretary:

Please show me as voting "Aye" on SB 84.

/s/ Jack Hill
District 4

Senator Grant of the 25th recognized 4-H Clubs of Georgia and declared February 9, 2009, as 4-H Day at the state capitol, commended by SR 147, adopted previously. Georgia 4-H President Joshua Akins addressed the Senate briefly.

At 12:20 p.m. the President announced that the Senate would stand in recess until 1:30 p.m.

At 1:30 p.m. the President called the Senate to order.

Senator Hooks of the 14th was excused for business outside the Senate Chamber.

The Calendar was resumed.

SB 104. By Senators Wiles of the 37th, Thomas of the 54th and Unterman of the 45th:

A BILL to be entitled an Act to amend Article 9 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to cosmetic laser services, so as to change certain provisions relating to the licensing of cosmetic laser practitioners; to amend certain definitions; to change certain provisions relating to the two levels of cosmetic laser services licenses; to provide the Composite State Board of Medical Examiners with the authority to waive certain requirements as to certain facilities; to provide for the license and expertise requirements of at least one member of the advisory committee; to provide for related matters; to provide for a contingent effective date; to repeal conflicting laws; and for other purposes.

The Senate Regulated Industries and Utilities Committee offered the following substitute to SB 104:

A BILL TO BE ENTITLED
AN ACT

To amend Article 9 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to cosmetic laser services, so as to change certain provisions relating to the licensing of cosmetic laser practitioners; to amend certain definitions; to change certain provisions relating to the two levels of cosmetic laser services licenses; to change the requirements relating to consulting physicians; to require certain information be provided

as part of informed consent; to provide the Composite State Board of Medical Examiners with the authority to waive certain requirements as to certain facilities; to provide for the license and expertise requirements of at least one member of the advisory committee; to provide for related matters; to provide for a contingent effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 9 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to cosmetic laser services, is amended by revising Code Section 43-34-242, relating to definitions relative to cosmetic laser services, as follows:

"43-34-242.

As used in this article, the term:

- (1) 'Board' means the Composite State Board of Medical Examiners created by Code Section 43-34-21.
- (2) 'Consulting physician' means a person licensed to practice medicine under Article 2 of this chapter and:
 - (A) Whose principal place of practice is within this state; or
 - (B) Whose principal place of practice is outside this state but is within 50 miles from the facility with whom he or she has an agreement to provide services in accordance with Code Section 43-34-248.
- (3) 'Consumer' means a person on whom cosmetic laser services are or are to be performed.
- (4) 'Cosmetic laser practitioner' means a person licensed under this article to provide cosmetic laser services as defined in this article and whose license is in good standing.
- (5) 'Cosmetic laser services' means nonablative elective cosmetic light based skin care, photo rejuvenation, or hair removal using lasers ~~and~~ or pulsed light devices approved by the United States Food and Drug Administration for noninvasive procedures. Such services and the provision thereof shall not be considered to be the practice of medicine.
- (6) 'Facility' means any location, place, area, structure, office, institution, or business or a part thereof in which is performed or provided cosmetic laser services regardless of whether a fee is charged for such services.
- (7) 'License' means a valid and current certificate of registration issued by the board which shall give the person to whom it is issued authority to engage in the practice prescribed thereon.
- (8) 'Licensee' means any person holding a license under this article.
- (9) 'Medical practitioner' means a registered professional nurse, ~~licensed practical nurse~~, nurse practitioner, physician's assistant, or physician.
- (10) 'Nurse' means a registered professional nurse, ~~licensed practical nurse~~, or nurse practitioner.
- (11) 'Person' means a natural person."

SECTION 2.

Said article is further amended by revising Code Section 43-34-244, relating to two levels of licenses and applications, as follows:

"43-34-244.

(a) There shall be two levels of a license for a cosmetic laser practitioner: assistant laser practitioner and senior laser practitioner.

(b) Any person desiring to obtain a license as a cosmetic laser practitioner under the terms of this article shall make application to the board as follows:

(1) An applicant for an 'assistant laser practitioner' license shall present proof that he or she:

(A) Holds a current valid license or certificate of registration as a physician's assistant, licensed practical nurse, nurse, esthetician, or master cosmetologist, or has previously held a license or certificate of registration as a medical practitioner; and

(B) Has received at least three laser certificates from attending laser/intense pulsed light (IPL) courses as approved by the board, directly taught by a licensed physician or certified continuing medical education or continuing education educator.

If, after review of the application, it is determined that the applicant is at least 21 years of age; has met the minimum educational requirements; is of good moral character; and is possessed of the requisite skill to perform properly cosmetic laser services, a license shall be issued to the applicant entitling the applicant to practice the occupation of cosmetic laser practitioner at the assistant laser practitioner level under the ~~direct~~ on-site supervision of a senior laser practitioner.

(2) An applicant for a 'senior laser practitioner' license shall present proof that he or she:

(A) Holds a current valid license or certificate of registration as a physician's assistant or nurse or has previously held a license or certificate of registration as a medical practitioner;

(B) Has at least three years of clinical or technological medical experience, or both;

(C) Has been or was licensed or nationally board certified as a medical practitioner for at least three years; and

(D) Has received at least two laser certificates from attending laser/intense pulsed light (IPL) continuing medical education courses as approved by the board, directly taught by a licensed physician or certified continuing medical education or continuing education educator.

If, after review of the application, it is determined that the applicant is at least 21 years of age; has met the minimum educational and clinical training requirements to perform cosmetic laser services with indirect supervision; is of good moral character; and is possessed of the requisite skill to perform properly these services, a license shall be issued to the applicant entitling the applicant to practice the occupation of cosmetic laser practitioner at the senior laser practitioner level pursuant to the protocols of a consulting physician.

~~(c) The board shall be authorized to waive any education requirements under this Code section in cases of hardship, disability, or illness or under such other circumstances as~~

~~the board deems appropriate with respect to any applicant who has practiced as a cosmetic laser practitioner prior to July 1, 2007. Any person desiring to obtain a license as an 'assistant laser practitioner' who does not meet the requirements of paragraph (1) of subsection (b) of this Code section shall also be eligible for a license as an 'assistant laser practitioner' if he or she makes application to the board within six months of the effective date of this article and presents proof that he or she:~~

~~(1) Prior to the effective date of this article, obtained a minimum of at least 2,000 hours of experience in administering cosmetic laser service; and~~

~~(2) Has received at least three laser certificates from attending laser/intense pulsed light (IPL) courses, directly taught by a licensed physician or certified continuing medical education or continuing education educator.~~

(d) Should an applicant have a current cosmetic laser practitioner license or certificate of registration in force from another state, country, territory of the United States, or the District of Columbia, where similar reciprocity is extended to this state and licensure requirements are substantially equal to those in this state, and have paid a fee and have submitted an application, the applicant may be issued a license at the appropriate level entitling him or her to practice the occupation of a cosmetic laser practitioner at that level, unless the board, in its discretion, sees fit to require a written or a practical examination subject to the terms and provisions of this article. ~~The board shall be authorized to waive any education or experience requirements applicable to any person who holds a current license or certificate to practice as a cosmetic laser practitioner outside of this state and who desires to obtain a license at a level authorized under this Code section to practice as a cosmetic laser practitioner in this state in cases of hardship, disability, or illness or under such other circumstances as the board deems appropriate."~~

SECTION 3.

Said article is further amended by revising Code Section 43-34-248, relating to agreement with consulting physician, as follows:

"43-34-248.

(a) Any facility providing cosmetic laser services other than hair removal using lasers or pulsed light devices shall have an agreement with a consulting physician who shall:

(1) Be trained in laser modalities;

(2) Establish proper protocols for the cosmetic laser services provided at the facility and file such protocols with the board; and

(3) Examine each patient prior to any cosmetic laser service other than hair removal using lasers or pulsed light devices being performed; provided, however, that a consulting physician may delegate the authority to perform such examination to a physician's assistant who is a licensed cosmetic laser practitioner, in accordance with a job description approved by the board, or to a registered professional nurse who is also an advanced practice registered nurse as defined in paragraph (1.1) of Code Section 43-26-3 and who is a licensed cosmetic laser practitioner, pursuant to a protocol approved by the board; and provided, further, that in facilities subject to the

provisions of Code Section 43-34-249.1 such delegation may be to a physician's assistant who is not a licensed cosmetic laser practitioner, in accordance with a job description approved by the board; and

~~(3)~~(4) Be available for emergency consultation with the cosmetic laser practitioner or anyone employed by the facility.

(b) Any facility providing cosmetic laser services other than hair removal using lasers or pulsed light devices shall have a supervisor present at the facility or immediately available for consultation and supervision either personally or via telecommunications. The supervisor shall supervise the performance of all cosmetic laser services performed by a person other than the consulting physician. The supervisor shall be a physician licensed under this chapter who is trained in laser modalities or a senior laser practitioner.

(c)(1) Any facility providing cosmetic laser services other than hair removal using lasers or pulsed light devices shall post a sign listing the consulting physician's name, emergency contact number, his or her board certification and specialty, and the address of his or her principal place of practice, and indicating whether he or she is presently on site at the facility.

(2) If the consulting physician is not on site for any period of time during which the facility is open, the facility shall post a sign indicating who is presently acting as the supervisor for the facility and that person's name, emergency contact number, his or her degrees and qualifications, and the type of cosmetic laser practitioner license held."

SECTION 4.

Said article is further amended by revising Code Section 43-34-249, relating to informed consent, as follows:

"43-34-249.

(a) Prior to receiving cosmetic laser services from a cosmetic laser practitioner, a person must consent in writing to such services and shall be informed in writing of the general terms of the following:

(1) The nature and purpose of such proposed procedure;

(2) Any material risks generally recognized and associated with the cosmetic laser service to be performed which, if disclosed to a reasonably prudent person in the customer's position, could reasonably be expected to cause such prudent person to decline such proposed cosmetic laser services on the basis of the material risk of injury that could result from such proposed services;

(3) The name of, degrees and qualifications held by, and type of license licenses obtained by the individual who will be performing the cosmetic laser service ~~has obtained~~, and with respect to cosmetic laser services other than hair removal, the supervisor and the consulting physician; ~~and~~

(4) The steps to be followed after the cosmetic laser service is performed in the event of any complications-; and

(5) With respect to cosmetic laser services other than hair removal, the emergency

contact information for the consulting physician and the address of his or her principal place of practice.

(a.1) After receiving each cosmetic laser service other than hair removal, a person shall be informed in writing of the information required by paragraphs (4) and (5) of subsection (a) of this Code section.

(b) It shall be the responsibility of the cosmetic laser practitioner to ensure that the information required by ~~subsection (a)~~ subsections (a) and (a.1) of this Code section is disclosed and that the consent provided for in this Code section is obtained.

(c) Where the consumer is under 18 years of age, the consent of the consumer's parent or legal guardian shall be required.

(d) The board shall be required to adopt and have the authority to promulgate rules and regulations governing and establishing the standards necessary to implement this Code section specifically including but not limited to the disciplining of a cosmetic laser practitioner who fails to comply with this Code section.

(e) Nothing in this Code section shall prohibit the information provided for in this Code section from being disclosed through the use of video tapes, audio tapes, pamphlets, booklets, or other means of communication or through conversations with the cosmetic laser practitioner; provided, however, that such information is also provided in writing and attached to the consent form which the consumer signs."

SECTION 5.

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

"43-34-249.1.

The board shall have the authority to waive the requirements of subsection (c) of Code Section 43-34-248 and paragraph (5) of subsection (a) of Code Section 43-34-249 for facilities offering cosmetic laser services which serve as a principal place of practice at which a physician regularly sees patients if medical services are regularly performed at such facilities. For purposes of this Code section, 'medical services' shall mean the general and usual services and care rendered and administered by a physician."

SECTION 6.

Said article is further amended by revising Code Section 43-34-250, relating to the advisory committee, as follows:

"43-34-250.

The board shall appoint an advisory committee. The advisory committee shall be representative of a cross section of the cultural backgrounds, to the extent practical, of the licensed cosmetic laser practitioners licensed under this article and such members as the board in its discretion may determine. The advisory committee shall include at least one person licensed to practice medicine under this chapter and specialized in a field with expertise in the biologic behavior of the skin. Members shall receive no compensation for service on the committee. The committee shall have such advisory duties and responsibilities as the board may determine, including but not limited to consulting with the board on the issuance, denial, suspension, and revocation of

licenses and the promulgation of rules and regulations under this article. The initial members of the advisory committee may include persons eligible for licensing under this article. Subsequent advisory committee members must be licensed pursuant to this article."

SECTION 7.

This Act shall become effective only if and when the "Georgia Cosmetic Laser Services Act," approved May 29, 2007 (Ga. L. 2007, p. 626), becomes effective as provided in Section 2 therein.

SECTION 8.

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

On the adoption of the substitute, there were no objections, and the committee substitute was adopted.

The report of the committee, which was favorable to the passage of the bill by substitute, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hawkins	Y Rogers
Y Balfour	Y Heath	Y Seabaugh
E Brown	E Henson	Y Seay
Y Buckner	Y Hill,Jack	Shafer
Bulloch	Hill,Judson	Y Sims
Y Butler	E Hooks	Y Smith
Y Butterworth	Y Hudgens	Y Staton
Y Chance	Y Jackson,L	Y Stoner
Y Chapman	Y Jackson,W	Y Tarver
Y Cowsert	Y Johnson	Y Tate
Y Crosby	Y Jones	Y Thomas
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Murphy	Y Tolleson
Y Golden	Y Orrock	E Unterman
Y Grant	Y Pearson	Y Weber
E Hamrick	Y Powell	Y Wiles
Y Harbison	Y Ramsey	Y Williams
Y Harp	Reed	

On the passage of the bill, the yeas were 47, nays 0.

SB 104, having received the requisite constitutional majority, was passed by substitute.

SB 97. By Senators Grant of the 25th, Tate of the 38th, Seay of the 34th and Unterman of the 45th:

A BILL to be entitled an Act to amend the Official Code of Georgia Annotated so as to change the designation of the State Merit System of Personnel Administration to the State Personnel Administration; to repeal conflicting laws; and for other purposes.

The report of the committee, which was favorable to the passage of the bill, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hawkins	Y Rogers
Y Balfour	Y Heath	Y Seabaugh
E Brown	E Henson	Y Seay
Y Buckner	Y Hill,Jack	Y Shafer
Bulloch	Y Hill,Judson	Y Sims
Y Butler	E Hooks	Y Smith
Y Butterworth	Y Hudgens	Y Staton
Y Chance	Y Jackson,L	Y Stoner
Y Chapman	Jackson,W	Y Tarver
Y Cowsert	Y Johnson	Y Tate
Y Crosby	Y Jones	Y Thomas
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Murphy	Y Tolleson
Y Golden	Orrock	E Unterman
Y Grant	Y Pearson	Y Weber
E Hamrick	Y Powell	Y Wiles
Y Harbison	Y Ramsey	Y Williams
Y Harp	Reed	

On the passage of the bill, the yeas were 47, nays 0.

SB 97, having received the requisite constitutional majority, was passed.

SB 98. By Senators Grant of the 25th, Tate of the 38th, Seay of the 34th and Unterman of the 45th:

A BILL to be entitled an Act to amend Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, so as to change certain references to the State Merit System of Personnel Administration to the State Personnel Administration; to repeal conflicting laws; and for other purposes.

The following Fiscal Note, as required by law, was read by the Secretary:



Department of Audits and Accounts

270 Washington Street, S.W., Suite 1-156
Atlanta, Georgia 30334-8400

Russell W. Hinton
State Auditor
(404) 656-2174

January 20, 2009

The Honorable Johnny Grant
State Senator
Coverdell Legislative Office Building, Room 321-A
Atlanta, Georgia 30334

SUBJECT: State Auditor's Certification
Senate Bill 98 (LC 21 0075)

Dear Senator Grant:

This bill would amend provisions relating to retirement and pensions under the Employees' Retirement System, the Teachers Retirement System, the Legislative Retirement System, the Judicial Retirement System, and the State Employees' Assurance Department. Specifically, this bill would change all references relating to the State Merit System of Personnel Administration to the State Personnel Administration.

This is to certify that this bill is a nonfiscal retirement bill as defined in the Public Retirement Systems Standards Law.

Respectfully,

/s/ Russell W. Hinton
State Auditor

The report of the committee, which was favorable to the passage of the bill, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hawkins	Y Rogers
Y Balfour	Y Heath	Y Seabaugh
E Brown	E Henson	Y Seay
Y Buckner	Y Hill,Jack	Y Shafer
Y Bulloch	Y Hill,Judson	Y Sims
Y Butler	E Hooks	Y Smith
Y Butterworth	Y Hudgens	Y Staton
Y Chance	Y Jackson,L	Y Stoner
Y Chapman	Y Jackson,W	Y Tarver
Y Cowsert	Y Johnson	Y Tate
Crosby	Y Jones	Y Thomas
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Murphy	Y Tolleson
Y Golden	Y Orrock	E Unterman
Y Grant	Y Pearson	Y Weber
E Hamrick	Y Powell	Y Wiles
Y Harbison	Y Ramsey	Y Williams
Y Harp	Reed	

On the passage of the bill, the yeas were 49, nays 0.

SB 98, having received the requisite constitutional majority, was passed.

Senator Seay of the 34th asked unanimous consent that Senator Reed of the 35th be excused. The consent was granted, and Senator Reed was excused.

SB 95. By Senators Unterman of the 45th, Thomas of the 54th, Chapman of the 3rd, Butler of the 55th and Tate of the 38th:

A BILL to be entitled an Act to amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to establish that it is an unfair trade practice to fail to consider the suitability of insurance for a person 65 years of age or older; to provide for requirements for the solicitation, negotiation, and procurement of annuity contracts; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senator Hudgens of the 47th offered the following amendment #1:

Amend SB 95 by inserting on line 4 after "contracts;" the following:
to provide for applicability;

By striking the double quotation marks at the end of line 168.

By adding immediately following line 168 the following:

(g) Nothing in this Code section shall be construed as overriding or limiting any regulation of the department in effect as of the effective date of this Code section to the extent that such regulation provides for consumers other than senior consumers."

On the adoption of the amendment, there were no objections, and the Hudgens amendment #1 was adopted.

The report of the committee, which was favorable to the passage of the bill, was agreed to as amended.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hawkins	Y Rogers
Y Balfour	Y Heath	Y Seabaugh
E Brown	E Henson	Y Seay
Y Buckner	Y Hill,Jack	Y Shafer
Y Bulloch	Hill,Judson	Y Sims
Y Butler	E Hooks	Y Smith
Y Butterworth	Y Hudgens	Y Staton
Y Chance	Y Jackson,L	Y Stoner
Y Chapman	Y Jackson,W	Y Tarver
Y Cowsert	Y Johnson	Y Tate
Y Crosby	Y Jones	Y Thomas
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Murphy	Y Tolleson
Y Golden	Y Orrock	E Unterman
Y Grant	Y Pearson	Weber
E Hamrick	Y Powell	Y Wiles
Y Harbison	Y Ramsey	Y Williams
Y Harp	E Reed	

On the passage of the bill, the yeas were 48, nays 0.

SB 95, having received the requisite constitutional majority, was passed as amended.

SB 23. By Senators Hawkins of the 49th, Pearson of the 51st, Murphy of the 27th, Butterworth of the 50th, Thomas of the 54th and others:

A BILL to be entitled an Act to amend Part 4 of Article 1 of Chapter 8 of Title 40 of the Official Code of Georgia Annotated, relating to horns, exhaust systems, mirrors, windshields, tires, safety belts, and energy absorption

systems, so as to provide that the failure to use safety belts may be considered evidence of causation, negligence, and contributory negligence; to provide for related matters; to repeal conflicting laws; and for other purposes.

The Senate Judiciary Committee offered the following substitute to SB 23:

A BILL TO BE ENTITLED
AN ACT

To amend Part 4 of Article 1 of Chapter 8 of Title 40 of the Official Code of Georgia Annotated, relating to horns, exhaust systems, mirrors, windshields, tires, safety belts, and energy absorption systems, so as to change the definition of the term "passenger vehicle"; to provide that the failure to use safety belts shall not be a basis for the cancellation of insurance coverage or an increase in rates; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 4 of Article 1 of Chapter 8 of Title 40 of the Official Code of Georgia Annotated, relating to horns, exhaust systems, mirrors, windshields, tires, safety belts, and energy absorption systems, is amended by revising subsections (a) and (d) of Code Section 40-8-76.1, relating to use of safety belts in passenger vehicles, as follows:

"(a) As used in this Code section, the term 'passenger vehicle' means every motor vehicle, including, but not limited to, pickup trucks, vans, and sport utility vehicles, designed to carry ten passengers or ~~less~~ fewer and used for the transportation of persons; provided, however, that such term shall not include motorcycles; motor driven cycles; or off-road vehicles or pickup trucks being used by an owner, driver, or occupant 18 years of age or older in connection with agricultural pursuits that are usual and normal to the user's farming operation ~~but shall not mean pickup trucks, motorcycles, motor driven cycles, or vehicles equipped for off road use, provided that the term 'passenger vehicle' includes any sport utility vehicle and also includes pickup trucks for any occupant who is under 18 years of age.~~"

"(d) The failure of an occupant of a ~~motor~~ passenger vehicle to wear a seat safety belt in any seat of a motor vehicle which has a seat safety belt or belts ~~shall not be considered evidence of negligence or causation, shall not otherwise be considered by the finder of fact on any question of liability of any person, corporation, or insurer,~~ shall not be any basis for cancellation of coverage or increase in insurance rates, ~~and shall not be evidence used to diminish any recovery for damages arising out of the ownership, maintenance, occupancy, or operation of a motor vehicle.~~"

SECTION 2.

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

Senators Hawkins of the 49th and Wiles of the 37th offered following amendment #1 to the committee substitute:

Amend the Senate Judiciary Committee substitute to SB 23 (LC 21 0282S) by striking lines 3 through 5 and inserting in lieu thereof the following:

energy absorption systems, so as to provide that the failure to use safety belts may be considered evidence of causation, negligence; to repeal conflicting

By striking lines 11 through 22 and inserting in lieu thereof the following:

absorption systems, is amended by revising subsection (c) of Code Section 40-8-76, relating to safety belts required as equipment and safety restraints for children four years of age or younger, as follows:

"(c) Violation of this Code section ~~shall not constitute~~ may be considered evidence of negligence per se or contributory negligence per se. Violation of subsection (b) of this Code section shall not be the basis for cancellation of coverage or increase in insurance rates."

SECTION 1.2.

Said part is further amended by revising subsection (d) of Code Section 40-8-76.1, relating to use of safety belts in passenger vehicles, as follows:

Senator Harp of the 29th moved that SB 23 be postponed indefinitely pursuant to Senate Rule 6-4.1.

Senator Seabaugh of the 28th objected.

On the motion, the yeas were 16, nays 25; the motion lost, and SB 23 was not postponed indefinitely.

On the adoption of the amendment, Senator Harp of the 29th called for the yeas and nays; the call was sustained, and the vote was as follows:

Y Adelman	Y Hawkins	Y Rogers
Y Balfour	Y Heath	Y Seabaugh
E Brown	E Henson	Y Seay
Y Buckner	Y Hill,Jack	Y Shafer
Y Bulloch	Y Hill,Judson	N Sims
N Butler	E Hooks	N Smith
Y Butterworth	Y Hudgens	Y Staton
Y Chance	Y Jackson,L	N Stoner
Y Chapman	Y Jackson,W	N Tarver
Y Cowsert	Y Johnson	N Tate
N Crosby	N Jones	Y Thomas

Y Douglas	Y Moody	N Thompson,C
N Fort	N Mullis	N Thompson,S
Y Goggans	Y Murphy	Y Tolleson
N Golden	N Orrock	E Unterman
Y Grant	Y Pearson	Y Weber
E Hamrick	Y Powell	Y Wiles
N Harbison	Y Ramsey	Y Williams
N Harp	N Reed	

On the adoption of the amendment, the yeas were 34, nays 17, and the Hawkins, Wiles amendment #1 to the committee substitute was adopted.

On the adoption of the substitute, there were no objections, and the committee substitute was adopted as amended.

The report of the committee, which was favorable to the passage of the bill by substitute, was agreed to as amended.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hawkins	Y Rogers
Y Balfour	Y Heath	Y Seabaugh
E Brown	E Henson	Y Seay
Y Buckner	Y Hill,Jack	Y Shafer
N Bulloch	Y Hill,Judson	Y Sims
N Butler	E Hooks	N Smith
Y Butterworth	Y Hudgens	Y Staton
Y Chance	Y Jackson,L	Y Stoner
Y Chapman	Y Jackson,W	N Tarver
Y Cowsert	Y Johnson	N Tate
N Crosby	Y Jones	Y Thomas
Y Douglas	Y Moody	Y Thompson,C
N Fort	N Mullis	N Thompson,S
Y Goggans	Y Murphy	Y Tolleson
Y Golden	N Orrock	E Unterman
Y Grant	Y Pearson	Y Weber
E Hamrick	Y Powell	Y Wiles
Y Harbison	Y Ramsey	Y Williams
N Harp	N Reed	

On the passage of the bill, the yeas were 39, nays 12.

SB 23, having received the requisite constitutional majority, was passed by substitute.

SB 133. By Senators Hawkins of the 49th, Goggans of the 7th, Thomas of the 54th, Williams of the 19th, Hooks of the 14th and others:

A BILL to be entitled an Act to amend Article 8 of Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to the "'Health Share' Volunteers in Medicine Act," so as to provide for certain compensation that may be received by a health care provider for purposes of sovereign immunity protection; to provide for related matters; to repeal conflicting laws; and for other purposes.

The Senate Health and Human Services Committee offered the following substitute to SB 133:

A BILL TO BE ENTITLED
AN ACT

To amend Article 8 of Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to the "'Health Share' Volunteers in Medicine Act," so as to provide for certain compensation that may be received by a health care provider for purposes of sovereign immunity protection; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 8 of Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to the "'Health Share' Volunteers in Medicine Act," is amended in Code Section 31-8-192, relating to definitions, by revising paragraph (1) as follows:

"(1) 'Contract' means an agreement executed in compliance with this article between a health care provider and a governmental contractor. This contract shall allow the health care provider to deliver health care services to low-income recipients as an agent of the governmental contractor. The contract must be for volunteer, uncompensated services. Payments made to a health care provider from the Indigent Care Trust Fund shall not constitute compensation under this article. Payments made to a health care provider who is an individual staff member of a safety net clinic shall not constitute compensation under this article if such individual health care provider's total compensation package, including all cash and noncash remunerations, does not fluctuate in relation to the number of patients served, patient visits, or treatments or any other factor relating to the number of patient contacts or services rendered and the individual health care provider or his or her employing safety net clinic does not receive compensation from any public or private third-party payor, including medicare, Medicaid, and private insurers, for the specific services provided to the low-income recipients covered by the contract."

SECTION 2.

Said article is further amended in Code Section 31-8-192, relating to definitions, by adding a new subsection to read as follows:

"(9.1) 'Safety net clinic' means a health care clinic which provides primary care outpatient services only, such as chronic disease management, vaccinations, and dental care, and which does not provide care or services which are considered to be primarily emergency care and services but which provides an alternative to emergency room visits for low-income patients for nonemergency medical services and which meets requirements established by the department; provided, however, that this term shall not include federally qualified health centers as defined in Section 1395x(aa)(4) of Title 42 of the United States Code Annotated."

SECTION 3.

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

Senator Hawkins of the 49th offered the following amendment #1 to the committee substitute:

Amend the Senate Health and Human Services Committee substitute to SB 133 (LC 33 2963S) by striking lines 16 through 24 and inserting in lieu thereof the following:

constitute compensation under this article. Payments made to the following health care providers delivering health care services pursuant to a contract under this article in a safety net clinic shall not constitute compensation under this article if such health care provider or the safety net clinic does not receive compensation from any public or private third-party payor, including medicare, Medicaid, and private insurers, for the specific services provided to the low-income recipients covered by the contract:

(A) A registered nurse or licensed practical nurse employed by a safety net clinic if such nurse's total compensation package, including all cash and noncash remunerations, does not fluctuate in relation to the number of patients served, patient visits, or treatments or any other factor relating to the number of patient contacts or services rendered; or

(B) A licensed physician or medical resident who is on staff at a local or regional hospital which provides such physician or resident to the safety net clinic for purposes of providing health care services during extended hours or on week-ends pursuant to a contract under this article; provided, however, that the physician or resident does not receive any compensation from the safety net clinic."

On the adoption of the amendment, there were no objections, and the Hawkins amendment #1 to the committee substitute was adopted.

On the adoption of the substitute, there were no objections, and the committee substitute was adopted as amended.

The report of the committee, which was favorable to the passage of the bill by substitute, was agreed to as amended.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Adelman	Y Hawkins	Y Rogers
Y Balfour	Y Heath	Y Seabaugh
E Brown	E Henson	Y Seay
Y Buckner	Y Hill,Jack	Y Shafer
Y Bulloch	Y Hill,Judson	Y Sims
Y Butler	E Hooks	Y Smith
Y Butterworth	Y Hudgens	Y Staton
Y Chance	Y Jackson,L	Y Stoner
Y Chapman	Y Jackson,W	N Tarver
Y Cowsert	Y Johnson	Y Tate
Y Crosby	Y Jones	Y Thomas
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Murphy	Y Tolleson
Y Golden	Y Orrock	E Unterman
Y Grant	Y Pearson	Y Weber
E Hamrick	Y Powell	Y Wiles
Y Harbison	Y Ramsey	Y Williams
Y Harp	Y Reed	

On the passage of the bill, the yeas were 49, nays 1.

SB 133, having received the requisite constitutional majority, was passed by substitute.

SB 123. By Senators Hawkins of the 49th, Murphy of the 27th, Hudgens of the 47th, Thomas of the 54th, Williams of the 19th and others:

A BILL to be entitled an Act to amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to provide for regulation and licensure of pharmacy benefits managers by the Commissioner of Insurance; to provide for definitions; to provide for license requirements and filing fees; to provide for requirements and procedures affecting pharmacy benefits managers; to require a surety bond; to provide that a pharmacy benefits manager shall not engage in the practice of medicine; to make certain audit requirements applicable to pharmacy benefits managers; to provide that a pharmacy benefits manager shall not have to be licensed as an administrator; to provide for related matters; to repeal conflicting laws; and for other purposes.

The report of the committee, which was favorable to the passage of the bill, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hawkins	Y Rogers
Y Balfour	Y Heath	Y Seabaugh
E Brown	E Henson	Y Seay
Y Buckner	Y Hill,Jack	Y Shafer
Y Bulloch	Y Hill,Judson	Y Sims
Y Butler	E Hooks	Y Smith
Y Butterworth	Y Hudgens	Y Staton
Y Chance	Y Jackson,L	Y Stoner
Y Chapman	Y Jackson,W	Y Tarver
Y Cowsert	Y Johnson	Y Tate
Y Crosby	Y Jones	Y Thomas
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Murphy	Y Tolleson
Y Golden	Y Orrock	E Unterman
Y Grant	Y Pearson	Y Weber
E Hamrick	Y Powell	Y Wiles
Y Harbison	Y Ramsey	Y Williams
Y Harp	Y Reed	

On the passage of the bill, the yeas were 51, nays 0.

SB 123, having received the requisite constitutional majority, was passed.

Senator Rogers of the 21st moved that the Senate adjourn until 11:00 a.m. Thursday, February 26, 2009.

The motion prevailed, and the President announced the Senate adjourned at 2:44 p.m.