House Bill 1026 (AS PASSED HOUSE AND SENATE)

By: Representatives Buckner of the 82nd, McBee of the 74th, Crawford of the 91st, Dodson of the 84th, Post 1, Heckstall of the 48th, Post 3, and others

A BILL TO BE ENTITLED

AN ACT

To amend Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees, so as provide that the Secretary of State may initiate action to prevent the sale, transfer, or destruction of certain property removed from a public office or public officer or employee; to provide for definitions; to provide for certain records of public agencies or officers to be placed with the Division of Archives and History; to provide exceptions; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees, is amended by redesignating subsection (e) of Code Section 45-11-1, relating to offenses involving public records, documents, and other items, as subsection (f) and by inserting a new subsection (e) to read as follows:

"(e) Upon presentation of affirmative proof, the Secretary of State or his or her designee may initiate action through the Attorney General or other appropriate jurisdiction to prevent the sale, transfer, conveyance, destruction, or alienation of any records, books, documents, or other office property which has been unlawfully removed from any public office or public officer or employee. Upon request of the Secretary of State or his or her designee, the Attorney General or other appropriate jurisdiction shall have the authority to enjoin, recover, and replevin such records, books, documents, or other office property."

SECTION 2.

Said title is further amended by striking Code Section 45-13-46, relating to surrender of materials to division for preservation and preparation of certified copies, and inserting in its place the following:

″45-13-46.

(a) Any state, county, or other official is authorized, in his or her discretion, to turn over for permanent preservation in the Division of Archives and History any official books, records, documents, original papers, manuscript files, newspaper files, portraits, and printed volumes not in current use in his or her office. Any record created or received by a state agency, constitutional officer, or Speaker of the House of Representatives in the performance of a public duty or paid for by public funds, and certified by the Director of the Division of Archives and History as necessary to document the history, organization, functions, policies, decisions, and procedures of the agency or office, shall be placed for permanent preservation in the Division of Archives and History when no longer in current use by the agency or officer. The Secretary of State shall provide for the preservation of said materials; and, when so surrendered, copies thereof shall be made and certified by the director upon the application of any person interested, which certification shall have the same force and effect as if made by the officers originally in custody of them and for which the same fees shall be charged.

(b) Personal and official records and papers of the Lieutenant Governor and the Speaker of the House of Representatives shall be exempt from the provisions of this subsection (a) of this Code section when such records and papers are deposited in a repository that meets the minimum archival and public access standards promulgated by the Division of Archives and History.

(c) As used in this Code section, the term 'constitutional officer' means any officer enumerated in Article V, Section I, Paragraph I, Article V, Section I, Paragraph III, and Article V, Section III, Paragraph I of the Constitution of the State of Georgia.″

SECTION 3.

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